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OF
THE TRIAL
OF
HER MAJESTY
CAROLINE AMELIA ELIZABETH,
QUEEN OF ENGLAND,

BEFORE THE

Peers of Great Britain;

*The whole of the Evidence, as it came out on the various Examinations and
Cross-Examinations of the Witnesses;*

THE

SPEECHES AND PROCEEDINGS OF THE PEERS ;

THE OPINIONS OF THE JUDGES;

And the Arguments of Counsel.

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1820.

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OF
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209, Strand, Nov. 24, 1830.

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Respondit autem et dixit ad eam: Egredere hinc; non sumus idonei ad invicem, neque enim corda nostra sub voluntate nostra sunt; et ego non amo te. Tunc assumpsit in fastidium suam, discessit tristis.

Guilielmus Salisburiensis in Chronico Abomilechi. Cap. I.

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DOLBY'S

PARLIAMENTARY REGISTER.

House of Commons,

MONDAY, SEPTEMBER 18, 1870.

The Speaker took the chair at a quarter before four o'clock.

THE QUEEN.

The CHANCELLOR of the EXCHEQUER, soon after the admission of strangers, and before order had been obtained, moved the appointment of a Select Committee, to inspect the journals of the Lords relative to the state of the Bill for Divorcing and Degrading Her Majesty.

On the question being put,

Mr. SERGEANT ONSLOW rose, and observed that, after all that had passed upon this subject, after the strong expressions used in debate regarding the nature of the pending proceeding; and the opinions so industriously circulated in all quarters; it was fit, for the honour and character of the House, as well as for the satisfaction of the country, that the inquiry here should be conducted with the utmost possible solemnity. He submitted therefore whether it might not be expedient that a Bill should be brought in to enable the House of Commons to examine witnesses upon oath. He did not himself feel authorized to propose such a Bill: a man so private and unknown as he was, could scarcely hope to have influence enough to carry it through, but he trusted that the executive government would take the subject into consideration.

Mr. CREEVEY was in doubt whether he rightly understood the Hon. Gent. Within the last few days reports had been circulated of an intended motion on the part of persons who were to be looked upon as the prosecutors of the Queen, to induce the house to renounce the right it now enjoyed, and had always possessed since it had been a House of Commons, of examining the witnesses at the bar. He was not sure, therefore, whether what the Hon. Gentleman had proposed was

not intended to sound the country on the subject, and whether the suggestion had not been made with the privity of Ministers. [Mr. Sergeant Onslow said, across the floor, "On my honour, no."'] He did not say that such was the design of the Hon. Gent. but it might have that effect. If such a rumour were true, and if, after having degraded the King, the Queen, and the other House of Parliament, Ministers proceeded to deprive the House of Commons of its undoubted and most valuable privilege of examining witnesses, the degradation would indeed be complete. (*Hear, hear.*) Then indeed would such a motion, if carried, operate as a proclamation for parliamentary reform; for what could the people think of a House of Commons, which, after for ages requiring that evidence should be given at the bar in every paltry divorce case, even after verdicts and other proceedings in courts below, consented, in this greatest of all divorce cases, that no witnesses should be openly adduced? (*Hear, hear.*) The more speedy the steps taken to pass here the odious measure now before the Peers, the more rapidly and irrecoverably would the House of Commons become an object of endless derision and boundless contempt with the nation.

Mr. SERGEANT ONSLOW had hardly thought it possible that he should have been so much misunderstood. His object was not to degrade the House of Commons, nor to induce it to forego its right of examining witnesses, but to suggest the propriety of a Bill to make those examinations more solemn by giving them the sanction of an oath. He assured the House, upon his honour, that he had thrown out the hint without connexion with any man in office—indeed, without having communicated it to any individual whatever. (*Hear.*)

Mr. BERNAL felt satisfied that his Hon. and Learned Friend had done nothing to merit the suspicion cast upon him. For his part, he felt bound to protest against any

extension of the power of the House by communicating to it the power of taking evidence upon oath. Nothing could be more dangerous than to invest it with an inquisitorial jurisdiction. He hoped that his Honourable and Learned Friend would be ready when the Bill came from the House of Lords, if that event ever happened, to do his utmost to throw it out.

Mr. HOBHOUSE said, that every fresh step only showed the House that it was unfortunately involved in fresh difficulties. Before he rose, he had looked round, expecting that some gentleman of greater weight in the country than himself would have risen to submit a motion, in which the House should express its indignation at being made merely an appendage of the peers—at being required to adjourn from day to day to wait their pleasure, while they were proceeding with a Bill already pronounced, by those who considered themselves the representatives of the people, derogatory from the dignity of the crown, and injurious to the best interests of the country. (Cheers.) He knew perfectly well that the present motion for a committee would be followed by a proposal for an adjournment: that was the natural course; and although the King's ministers could, at any time they thought prudent, prorogue parliament altogether, it seemed quite new that they should have the power of adjourning the House of Commons from day to day in this manner, for the attainment of no great national object, and to the great inconvenience of the members. (Hear, hear, hear.) If they were to be thus treated, it might be a question whether it would not be better for the opponents of the Bill now pending to retire altogether from the contest, and to leave the odium of completing so detestable an enactment to those with whom it originated. (Hear, hear.) He objected to the motion for a committee, because it appeared to him that, by consenting to consult the journals of the other House, the Commons were recording its opinion that the Bill on which the Lords were engaged was correct, just, and for the general advantage. His confirmed and solemn opinion was, that the inquiry, instead of being advantageous, was, in every way, most pernicious, and that it would end in the disgrace of the nation, and in the destruction or injury of some of its dearest interests. The best reason was afforded for rejecting this motion, inasmuch as nothing had been yet urged to warrant an approval of the proceedings of the Lords. He was well aware that, according to the forms of this House, members must appear ignorant of all that was passing round them, however notorious; but on the last occasion it had been permitted, for the sake of distinctness, to mention what had occurred in another place: and he trusted that he should not be called to order if he pursued the same line of conduct now. In the first place he must say that this House owed the other no peculiar deference

when it acted in direct contradiction of the express and solemn decision of the representatives of the people. The Lords had gone into the inquiry which the Commons had rejected—they had examined the filthy contents of the Green Bag, which the Commons with disgust and scorn had left unopened upon the table. Why, then, were their journals to be looked into? Why were the Commons of England to regulate their conduct by following any steps which the Lords had disgraced themselves by taking? (Cheers) For one, he was astonished that any man of common sense and common knowledge could suppose for a moment that the Bill of Pains and Penalties would be treated with any thing like impartiality in the House of Lords. He did not mean that the Peers were worse than common men, but he did maintain that they were not better than common men, and that they must be influenced by those feelings in which all human beings participated. When they saw honour and advancement on one side, and neglect and disgrace on the other, there could be no doubt which they must prefer. How fallible they were—how liable to the imperfections and frailties of humanity—was sufficiently established by divisions. What had been the divisions in the House of Lords?—

The SPEAKER interposed. He agreed that, to make the subject more intelligible, it had been agreed to forego the usual strictness of allusion: but he put it to the Hon. Gent. whether, by going into details, by referring to the divisions in the House of Lords, not merely the forms but the substance of the rules of the house were not violated? (Hear, hear.)

Mr. HOBHOUSE continued, that he had no intention to go further than had been allowed during the last discussion: he meant to refer merely to what was perfectly notorious.

Mr. CALCRAFT observed, that while the Hon. Gent. confined himself to a reference to past divisions, he would be quite regular, for they appeared on the journals of the Lords, which it was now proposed that a committee should be appointed to consult.

Mr. HOBHOUSE had concluded that he might refer to what was not only notorious, but to what in fact had become matter of record in a court of justice.—(Hear.) The House of Lords was now acting rather in a judicial, than in a legislative capacity; but he was willing to abstain, and to omit the observation he was about to make. His own impression—and he believed that in it he was by no means singular—was, that there was not the slightest chance of impartiality in the decision of the Lords. If so, was it not the duty of every honest man, of every member of parliament, to do his utmost to suppress this bill in *limine*? and with this view, on the former adjournment, he had seconded the motion of a Noble Lord. The same reasons still induced him to object to all further proceeding in this measure in the other house of

parliament, and it seemed to him impossible that the nation, the King, or the illustrious party accused, could be benefitted by its further prosecution. As to the nation, it had most unequivocally and decidedly pronounced its judgment against the bill. It was said, however, that the popular feeling was not deep—that the motion was only on the surface, and that it had been excited merely by those who were in the habit of rousing the sentiment of the multitude. But might not the same answer be made upon every occasion when the national voice was raised? Was it not an excuse ready at all times to act in direct contradiction to the wishes of the country? (*Hear, hear.*) But the motion was not on the surface; the feeling was deep and intense, and it sprang from a love of justice and a hatred of oppression; from sentiments that had always distinguished and done honour to the inhabitants of these kingdoms, and which it was the duty and interest of the government rather to cherish than to destroy. Next, could the King (if his name might be mentioned) be benefitted by perseverance? Unquestionably not, for it was now said that the bill was not for the relief of his Majesty, since only that part of it would pass which degraded the Queen, and not that part by which she was to be divorced. What, then, could be its object? Suppose the Right Hon. Gentlemen opposite should be cursed with the accomplishment of their desires in this respect, in what situation would the illustrious parties be placed? The only result would be, that the Queen would be proclaimed to be a strumpet, and the King—what he would not mention in this house. (*Cheers.*) Who then would be the gainers, for even ministers themselves must be severe sufferers? Had the Noble Lord and his colleagues taken into consideration what must in any case be the event? Would they be ever able to carry their bill into execution? If they consulted the opinions and feelings of the lower orders, whom they were so much in the habit of despising, they would find it to be impossible. But if, as the prime minister had stated; one part of the measure was to be rejected, why not throw it out altogether?—why was one clause to be kept for the sole purpose of degrading the King, the Parliament, and the country, under the pretence of degrading the Queen? In God's name, let a stop be put to all such ruinous proceedings! What had appeared during the inquiry? Supposing it true, was it to the honour of the nation? And what well wisher to the character of Great Britain in the eyes of foreign nations would not gladly witness the termination and abandonment of the whole? The degradation was not merely at home, but abroad—it was here, there, and every where; our Ambassadors, our Officers, and our Lawyers, had become spies, eaves-droppers, and suborners of perjury. (*Continued Cheers.*) At last, to complete the picture, our Parliament, the Peers of England, the Representatives of Noble

Families, and the descendants of Heroic Ancestors, the pillars of the state, were sent to pry into foul clothes bags, and to pore over the contents of chamber utensils. (*Repeated cheering.*) Was such the legitimate duty of a Peer of Parliament? Was this the mode in which the law-makers of the greatest country in the world should be employed; Was it fit that the Commons should follow such an example? Was this House in solemn mockery to sit down to the examination of charges rejected with disgust by the whole body of the people? He was not now speaking on behalf of the King, the Queen, or the Nation; but even if it were severe upon her Majesty to stop at this moment, before the opening of her defence, he still should say, "stop and reject this most infamous Bill."—At the same time he must say, that he did not think the Queen would suffer; it was very well for her Learned Counsel to implore a continuation, for he knew how every thing in the end would redound to the disgrace and confusion of her prosecutors; but enough had now been done to show that the preamble of the bill had not the slightest foundation, supported as it had been by documents in the Green Bag, unworthy to be submitted to any man of common sense, common decency, or common honesty. (*Hear, hear.*) The national feeling was obvious from the precautions taken against it. The Lords had literally hedged and paled themselves in by a standing army; and in the same way the Commons, he supposed, would be required to put themselves in garrison, under the protection of the military, until, at last, the sentence was verified—*obsecrans curiam et clausum armis senatum*. What a figure must England cut in the eyes of Europe, when her representatives should be obliged to fence themselves round with bristling bayonets, because there was no sympathy between them and the people? (*Hear, hear.*) The best mode therefore seemed, under all the circumstances, to be, to adopt some such motion as was offered by a Noble Lord at the last meeting—that his Majesty would be pleased to prorogue Parliament, and thereby suspend at once all proceedings against the Queen. There was one question he should like to ask before he sat down—and that was, who was to pay for all this? (*Cheers.*) He supposed that the nation must pay (for he did not imagine that the Noble Lord and his colleagues would be very willing to bear the disbursement); and then arose the inquiry, what it paid for? Did it pay for honour or glory? No; it was compelled to pay for that which was contrary to its most deliberate wishes and most valuable interests. At least, it was reasonable to tell it how much it would be called upon to pay; but even this was denied, and ministers were very ready to disclose how much money had been paid to the Queen; they determined to say nothing of the heavy charges incurred by the prosecution. There was another rea-

son for abandoning the Bill, which he should have mentioned before had it occurred to him; and it was this—that the House of Lords were not acting as judges and jury, but as prosecutors. On the first day the Attorney-General, being asked, stated that he appeared by order of their Lordships; and, if so, it was not easy to know how they could order him to attend to support the Bill, unless they were its prosecutors. This was another deformity to be added to this monstrous tribunal. Suppose this measure were at once rejected, would Parliament be disgraced? If it were, it would be the doing of the Noble Lord: he had heaped the disgrace upon the nation, and he (Mr. Hobhouse) feeling no respect for the Noble Lord, had no difficulty in speaking freely what he thought of his conduct. The whole fabric had broken down under those who had heaped together the frail materials, and it was mere folly not to be taught by experience. He could not devise a reason why Ministers should object to a prorogation, which would save them an immense quantity of trouble, anxiety, and disappointment. A great deal had been said, indeed, about not being intimidated by the people, but he could see no disgrace in being taught by experience—in withdrawing what was most detrimental—in being intimidated from doing what was wrong, unjust, and injurious. On these grounds he should move, as an amendment, "That an humble address be presented to his Majesty, praying him to Prorogue Parliament, and thereby to prevent the further progress of measures against his Queen."

The amendment having been seconded by Mr. Bennet, it was put from the chair, and strangers were ordered to withdraw for a division, when

SIR ROBERT WILSON rose.—He said that the silence of ministers on the present occasion might be very dignified, but it would not satisfy the country. For himself, he would not forego this opportunity of declaring, that should the Bill of Pains and Penalties come into this House, there was no resistance—no obstacle—no impediment which the wit of man could devise or perseverance apply that he would not make use of to stop its progress; not merely because the measure in its form was abominable, odious, and unconstitutional, but because he now conceived himself a competent judge of the whole proceeding. He had attended every day in the House of Lords—he had heard all the witnesses—he had listened to all that could be urged in their favour—he had observed the conduct of the judicial assembly, and he was prepared to assert on his oath—on his conscience before God—that these proceedings had originated in a foul and infamous conspiracy.—(Hear, hear.) These were hard terms, it was true; but it was his duty on an occasion like this to speak out, and not to allow the best interests of his

country to suffer, lest he should give offence in any quarter. (Cheers.) He could afford proof that the conspiracy originated not at Milan, but at Hanover. Could any man doubt that Baron Ompteda received instructions to open drawers, to pick locks, and to steal letters? For when he came back to Hanover, instead of being disgraced, he was re-instated in his rank, and certain arrears of pay were given to him that had been withheld for some political misconduct while Jerome Buonaparte was in possession of Westphalia. But, if received at Court, he was rejected by the people, for the Hanoverians made him a contemptible outcast from all society. In the same way who could doubt that the British Minister at Stuttgart had acted under instructions? But, if the plot was hatched at Hanover, it grew and was perfected at Milan, which was made the rendezvous of all that was despicable, and nothing was refused that contributed in the slightest degree to blacken the reputation of her Majesty: discarded servants were welcomed with avidity, and even the creation of testimony seemed to have been encouraged as long as it increased the slander and the infamy. To show the nature of the witnesses, and the manner in which they were rewarded and encouraged, he had in his possession a letter from the Rev. Mr. Godfrey, regarding Sacchi, who, being hired as a courier, received from the Princess of Wales 70 Napoleons a year. It appeared that, while at Mr. Godfrey's, he was not looked upon nor treated as if he had been a menial servant, but as a gentleman of rank, for he had a servant of his own to attend him: besides, he was called by Mr. Godfrey by the name of Monsieur de Milani, which proved that he had so represented himself: the letter, besides, contained the following sentence:—"You wish to know on what terms I received him; the terms were 5*l.* per week for himself and his servant." Thus a menial servant, receiving in Italy 70 Napoleons a year, coming to England as a witness against the Queen, was allowed an attendant of his own, and was able to pay 5*l.* per week, about 270*l.* a year, for his board alone. (Cheers.) Was not this very like subornation of perjury? (Hear.) All this was on the same scale and for the same purpose as when the master of a ship received 1,500*l.*; equal to 5,000*l.* in Naples. A Prince Cardinal in Rome was allowed only 14,000 dollars a year; and yet this captain of a polacre obtained 12,000 dollars a year for his evidence. Looking at these facts, the nation would assert that the Queen had been insulted, and the King betrayed. Not merely had she been insulted by the direct evidence, but by the introduction of obscene incidents which had no connexion with the case. (Hear, hear.) The King had been betrayed, because it was impossible that he should have known the vile nature of the evidence, or the disgraceful means employed to obtain it. He (Sir R. Wilson) spoke thus

openly, because he was an enemy to the whole proceeding: he had voted for accommodation, in the first instance, as best calculated to secure the interests of the people as well as of the King and Queen—because he recollected the former sufferings of the Queen—because he was scared at the gigantic power against her—because he knew the tenderness and delicacy of female reputation—because he knew how difficult it was to resist nature, resentment, and opportunity. But having now heard the charges, and the evidence in support of them, he should be the basest of men if he did not do all in his power to prevent the Queen from perjured witnesses and a partial tribunal: if he had a thousand lives, he would willingly sacrifice them all rather than see innocence suffer and injustice triumph.—(Cheers.)

Dr. PHILLIMORE, in explaining the reasons for voting against the amendment (as we understood), complained that the Hon. and Gallant Gen., who spoke last had formed an opinion upon *ex-parte* evidence: the case was not yet concluded; and though the Hon. and Gallant General might be competent to decide, he believed that he enjoyed that competence exclusively. (Hear.) He was convinced that justice would be done to the Queen in the result, and that neither the House of Lords nor Commons would arrive at a conclusion inconsistent with the truth of the evidence: she would not be pronounced guilty unless she were really so. (Hear, hear.)

The Hon. H. G. BENNET was desirous of an opportunity of stating that his original opinion was in no respect changed by what had recently transpired in the House of Lords. All men, he thought, must now feel, that day after day new and increasing dangers were impending over the country by persevering in this measure, and that there was no safety but in retreat. For years Ministers had pursued the same system of bringing into odium and contempt the institutions of the country: their last effort was the Bill before Parliament, and its introduction would be regretted, by all who loved their country, to the latest hour of their existence. When Government found that it was not likely that they should accomplish their whole object, they relinquished the half of it; and the Prime Minister had been heard, in the House of Lords, to declare, that, though her Majesty might be too infamous to be Queen of this country, she was not too infamous to be wife to the King! (Much cheering.) An Hon. Gent. (Dr. Phillimore), had objected to *ex-parte* statements and decisions; and what he said on this subject had been gladly cheered by the Noble Lord and his adherents. Yet what was the fact? The case against the Queen was closed; and if a man found nothing of guilt in it, it was the precise contrary of an

ex-parte conclusion—it was an opinion formed on all the evidence that could be adduced. Since the days of the Star-chamber—since the time when Bradshaw sat upon the life of the King—no proceeding so monstrously unjust as the present had been heard of. The evidence was heard—it was enforced in all its bearings, and then the case was stopped—stopped after the beastly, the disgusting, the loathsome evidence which the Attorney-General, to his own disgrace, had thought fit to produce, had been gone through with an odious particularity. Yet this testimony, bad as it was, did not at all come up to the charges, many of which the counsel for the prosecution had not attempted to prove, or even to ask a witness one question regarding them.—(Cheers.) Of the allegorical personage who employed the Attorney-General the house knew nothing: who were their real clients was still kept a mystery; but to their eternal disgrace, statements were made at which the blood boiled even in the recollection, and which, till the moment he (Mr. Bennet) had listened to them, he did not believe that an English gentleman would have been compelled to hear. Her Majesty was so placed as to have to defend herself against all the acts that could be raked up during six years in travelling in different parts of the world. When this charge was first introduced, from the confident manner in which it was brought forward, he thought it barely possible that some misconduct might be adduced against her. To be sure her Majesty's conduct was calculated to banish all notion of guilt even at the outset: the fearless way in which she laughed to scorn her accusers—the manner in which that heroic woman set her foot upon the shore of England, and, above all, the decisive tone in which she rejected all attempts at mediation between her and her accusers, conclusively satisfied his mind at the time of her complete innocence.—(Hear, hear.) He had, indeed, known persons die with the expression of innocence upon their lips, against whom guilt was but too clearly proved; he had known them die with that declaration in their mouths, for the sake of their families, or for some other worldly purpose; but he had never known, and he challenged the memory of any other man to say whether there had ever existed, a guilty person who rushed to trial instead of escaping from such an ordeal?—(Hear.) Was there ever an instance of a guilty person seeking a trial who could have escaped from one? (Hear, hear.) He defied any man to produce an instance of such an occurrence. The conduct of the Queen on the occasion to which he alluded had satisfied his mind of her complete innocence. He had kept that principle steady and strong in his mind, and it was impossible to reconcile it with the existence of guilt. (Hear, hear.) His deliberate conviction, now that the prosecution had been gone through, was, that

the whole was a foul and disgraceful conspiracy against her Majesty: he thought so early in the business, and now, at its close, that opinion was most strongly confirmed. (*Hear.*) Feeling the danger to which the country was exposed from further perseverance of any kind in such a Bill as that in question; feeling that all classes of society, in a manner, (he would not indeed say all classes, but a vast majority of the people,) were of the same opinion; seeing that this was another instance (and the strongest instance within his memory) in which one class was to sit as judges upon a case, while the others were arrayed against them; looking to the infinite mischiefs likely to arise from the army and navy's taking a part upon the occasion—for it was universally known, and it was in vain to deny, that there was, among all ranks of men, upon this subject, a feeling so strong as had never been remarked before; knowing, as they did, that the army and navy participated in that feeling, as to the treatment which the Queen had received; aware that such was the opinion of the fleet and of the army—and, while the army was of its present size, it was their master (*loud cries of "hear, hear,"*)—he repeated, that while the army was of the size it now was, it was their master; and, finally, seeing that, upon this particular question, these and other classes of the people held opinions directly in the teeth of power, and in the face of his Majesty's government;—upon all these considerations he could not help looking at this transaction as one of the most dangerous and most inauspicious ever embarked in by any government. The sooner it was retracted the better for the country. He could consider it in no other light. It was described to be a proceeding pending before a court of justice; and as he should freely comment upon any proceedings in the Court of King's Bench or the Court of Common Pleas, he should therefore feel himself competent to canvass those of the court in question. He must say, that, with all deference to the opinion of his Hon. Friend, the experience of his (Mr. Bennet's) own time, as well as that of the past, went to show that the character of proceedings before that tribunal was bad. It had been remarked, that during the progress of this measure, frequent allusion had been made to the case of a celebrated English prelate—Bishop Atterbury. He was very sure, that whoever would take the trouble of looking to Bishop Atterbury's case would see that that was a complete party measure. All the Whigs went one way, and all the Tories the other, upon that occasion. The ends of justice were neglected, and it was altogether a proceeding which did no credit to times past, but was rather a lasting disgrace to the country. He believed that this was the first time, and this the first instance, in which there had ever been heard cheers in a court of justice; certainly no one ever attended at a trial in the Court

of King's Bench and heard the Judges cheer. (*Hear, hear.*) He might add, that this was the first time in a court of justice, in which counsel had been browbeaten and frequently interrupted by the Judges, and attempted to be put down. (*A laugh and cries of Hear.*)—It was true that the spirit of the counsel resisted and survived it; but it was not the less true that the attempt to browbeat and put down was made. This was also a singular instance of Judges putting questions which were rejected as illegal. It might be said, indeed, that this latter circumstance was owing to the parties not being altogether accustomed to judicial forms and accuracy: it might be so, but he was sure that this was not a tribunal before which it was quite as safe to appear as before the twelve judges. He had now, in a few words, shown what had been the effect of this proceeding before upwards of 200 judges; let the House now reflect what would be the effect of a similar proceeding before more than 600.—(*Hear.*)—It had been his misfortune to attend to the progress of a measure which had hitherto brought nothing but disgrace and vexation upon the House. If the House consulted its best interests, its true dignity, they would support the Amendment of his Honourable Friend, and by their vote get rid of the motion altogether; acting under the full and firm conviction that every thing they did in connexion with this unfortunate proceeding, would only tend to make the difficulties of the case still greater, and only tend to increase those distresses and calamities which were to be apprehended from its further prosecution. Under these circumstances he felt it his duty to support the amendment of his Honourable Friend.

The ATTORNEY-GENERAL, notwithstanding the tone and temper which had distinguished the speeches of those Hon. Gents. on the other side who had addressed the House on this occasion, should not be tempted to follow the course which they had taken. (*Cries of hear, and speak out.*) For what did they do? They were aware that they were now discussing a proceeding which was pending in the other House; yet they came down there and gave their opinions upon that proceeding, and endeavoured—(he must be permitted to say, at least, that such was calculated to be the effect of their speeches) by statements of what had, and not only of what had, but of what had not passed in the other House, to inflame the minds of the people upon the subject. (*Hear, from the Treasury benches.*) He should not, follow them in that irregular course; but other things had been said, upon which it was necessary for him to offer a few words. It had been said that the course and conduct pursued by himself as Attorney-General had been disgraceful to him. Whatever Hon. Gentlemen might please to say, he should content himself with replying, that it would

have been disgraceful in him if he had shrunk from that line of conduct he had pursued. It would be seen hereafter whether the proceedings which had been taken against the Queen were or were not justified; but he could assure the House, that in their present stage he should consider himself infinitely more disgraced by any approbation of the Hon. Gentleman's (we presume, Mr. Bannet). *Cries of Hear, hear, hear, from the Treasury benches.*

Mr. HUMPHREY did not intend, upon this occasion, to take up much of the time of the House; but one thing he must be allowed to observe, and that was, as to what had fallen from an Hon. and Learned Friend of his (Dr. Phillimore), who complained of the conduct of the Gallant General (Sir Robert Wilson) in bringing this subject before the House in the way he had done. Why, what were they assembled for, he would ask? What was the avowed purpose for which they had met?—what was the professed object of the Right Hon. Gentleman's own motion? The object and the purpose were known to every body out of that House as well as in it. When that Honourable and Learned Gentleman complained that they were now proceeding in an "ex-parte" manner, and upon "ex-parte" matter, he should have considered what had been the "ex-parte" treatment which the Queen herself had met with. *Cheers.* Who was it that had attempted to degrade her?—*(Hear.)*—who was it that ordered the omission of her name from the Liturgy?—*(Hear)* who was it that had insulted her? Who had refused to grant her any house for her residence?—*Hear, hear.* Who had refused her even a carriage? His Learned Friend would have done much better, and more reasonably, if he had complained of the views and conduct, every way ex-parte, which had been uniformly adopted towards the Queen. His observations upon the conduct of the Gallant General did appear most unwarranted, and, to say the least, entirely uncalled for: and from him as an individual conducting, or at least taking a great share in the proceedings of a court of justice, he should have rather expected a leaning towards the Queen, who had really that cause of complaint which the Learned Gent. was too hasty in affirming on the other side. For his own part, he did not hesitate to say that he did believe, with the Gallant General, that this was one of the foulest and most disgraceful conspiracies which ever was formed.—*Hear, hear, hear.* But he could by no means agree with his Hon. Friend (Mr. Hobhouse) in the amendment now proposed by him, because he thought it would operate to the great injustice of the Queen herself. It was due to her that no such intervention should now arise. There was a feeling from one end of the country to the other in favour of her innocence, in which he most solemnly concurred. *(Hear, hear, hear.)*

There might be persons who thought differently, and of those, possibly, was the Learned Individual who summed up the evidence for the prosecution. He certainly agreed with the Hon. Gent. who had so lately spoken in thinking that the Attorney-General had disgraced himself in this affair.—*(Hear, hear.)* He meant no personal reflections beyond those which were occasioned by the Attorney-General's conduct in this business; he had dared to accuse the Queen of adulterous intercourse for 6 years, and yet had not attempted to prove it for more than 2. *(A laugh and cries of hear.)* Gentlemen might laugh at this statement, but he had carefully and correctly repeated to them what was the fact; for the Solicitor-General, in summing up, had himself said, that the adultery was proved as for 2 years only. Now his (Mr. Hume's) object in recalling this circumstance to the attention of the House was to show that the Attorney-General had disgraced himself by laying such an accusation, which applied to a period of 6 years; and that the Solicitor-Gen. had also disgraced himself in an extraordinary degree, by observing, when he summed up, that every thing which had been stated by his Learned Friend the Attorney-Gen. had been proved, when there was this fact staring them in the face. He entirely concurred with the Gallant General in every thing which he had said; and those who were of opinion that the proceedings should stop now, in order that the mischievous details, and the moral poison which they occasioned, might not be allowed to be diffused abroad, should have said so before, and not have let the proceedings go forth to the world in the way it had gone. Now it happened that he (Mr. Hume), had taken particular note of the words which had fallen from the Noble Lord (Castlereagh), on this subject immediately before the adjourning of the House. He said, "the public mind, no doubt, will be much irritated; but let the evidence go forth, and I am quite sure that the public mind will be satisfied." This was nearly, if not exactly, what the Noble Lord said on the occasion. He (Mr. Hume), asked any man who had witnessed the proceedings during the progress of this trial, if her guilt, or any thing like her guilt, had yet appeared from any thing which had taken place against the Queen? As far as things had gone, those who were to prosecute had tried, and done their worst; and he declared, on his conscience, that were he himself a jurymen upon the trial, he would, before God, acquit this woman. He the rather said this now, because, although he was, in a manner, the first man who had mentioned her Majesty's name in that House, he had ever been extremely anxious not to prejudice her case, and not to express any opinion on the subject until the evidence for the prosecution should be closed. He had therefore, uniformly been very guarded hitherto upon this point; and he was

now free to confess that he had expected some more damning fact, as they might be pleased to call it in their view of the subject, might be brought forward against the Queen. But what had been the result down to the close of the prosecution? Had a single respectable person, even in those countries, come forward to prove such a fact? These alleged acts, this intercourse of adultery, had been said by his Majesty's ministers to be facts public and notorious as the sun at noon-day. If so, how was it they had not been proved? If the case were not so, as he most solemnly believed, why had those ministers dared to insult the country by bringing forward such witnesses? He ventured to say, that, such as they were, it would be shown that other governments compelled them to come over here: (*Hear, hear.*) It might be shown too, that her Majesty could, as he was confident and assured she would, completely rebut every charge which was at all capable of being rebutted, if justice were done to her. He said, "If justice were done to her," for, while in the course of the pending proceedings they had seen the ambassadors of different states, in foreign countries, exercising the capacity of spies, and giving every facility in their power to the witnesses against the Queen, what was the situation, in this respect, of her Majesty, who was required, and who, he was well assured, would yet be able, so to rebut every charge? He held in his hand a letter, upon which he thought he could repose the utmost credit, in which it was stated, that Mr. Henry, who went out of this country, admitted and recognised by his Majesty's Ministers, as the express and accredited agent for marshalling evidence for the Queen, in order to speak to specific facts, had been much impeded in his mission. He had reason to believe that great impediments had been thrown in the way of this officer, who was known to be acting for the Queen. (*Hear.*) While all the witnesses against her Majesty had been provided with passports, and expedited without difficulty, no less than four of the witnesses who had tendered their services to come over to England on her behalf, in order to speak to certain facts, had been prevented by the machinations of Colonel Brown from coming, and had since declared that they would not come. (*Hear.*) No less than four, out of four and twenty witnesses, this had occurred to. After this, would any one talk of the impartiality observed in this case, when every thing like the most unjustifiable partiality was put in motion against her Majesty? While it became every one to wait now the issue of these proceedings, he confessed that he was not one who thought the House of Lords would ever find her guilty; nor did he believe that they, in that house, would ever be troubled with the bill at all. Upon all these views, therefore, he really could

not support the amendment of his Honourable Friend; and here he must express his anxious wish that her Majesty's witnesses might be enabled to come over. He could not help asking the Noble Lord, at this part of his observations, whether he had authorized—or had himself given any directions for—the sending of those witnesses who had already deposed against her Majesty out of this country? (*Hear, hear.*) Rastelli was understood to be now on his route to Italy (*hear*); if so, he did wish to ask, where was the pretended justice of this case? This Rastelli was a stable-boy, originally in the service of her Royal Highness; but, like every body else of that establishment who had appeared against her, was now become a gentleman, and living on the fat of the land. (*A laugh.*) When people in foreign countries heard that, if they came to give evidence for her Majesty they must be subjected to the difficulties he complained of, could it be any wonder if they should manifest an unwillingness to appear? But, on the other hand, he repeated, if only justice were done to her Majesty, every thing which had been charged against her would be disproved. He did verily believe the whole of this conspiracy to be as foul a one as ever had been known in any country, and one which could only terminate in the disgrace and confusion of its originators. He thought that his Majesty's ministers, and those who acted with them—the bishops—had better be cautious what they did in this case, under pretence of taking care of the morals of the country. Look at the conduct which had been already pursued, and what its consequences might be. He believed there was not a conscientious individual but would say that the dissemination of the poison he spoke of through this country would do ten times as much mischief as ten such Queens could have done three years ago, even upon their own showing. He had already remarked, that not one witness had been produced to speak of the last three years; but state necessity had been urged as a reason for instituting a measure applying to a case thus terminating three years since. To talk of state necessity, therefore, in this case, was clearly the vilest and most hypocritical cant in the world. He earnestly hoped, that if it should be proved by the result that this was a conspiracy, and these charges accusations of the nature he took them to be, measures would be taken to inquire into the magnitude of their offence who were implicated in the transaction.—(*Hear, hear.*) Every body connected with such a transaction should be brought before the house; and, among others, his Majesty's ministers themselves.—(*Hear, hear.*) Not that he thought his Majesty's ministers were the original inventors or framers of the machinery; but because, by even proceeding to agitate a measure of this kind, they had done more to disgrace Majesty, and to degrade the dignity of the throne, than

any thing which had ever been before effected.—(*Loud cries of hear.*) He would venture to say that all the meetings termed "seditious," which had taken place during the last year, and which his Majesty's ministers had punished with death, had not done half that real harm and mischief which this measure of theirs had caused. He repeated it—all should be examined in this case, and every thing thoroughly sifted. If justice was to be done, why should a weaver be hung and a minister passed over? The effect of the conduct of ministers in this business has been this:—to degrade Royalty.—(*Hear.*) He believed in his conscience that at that moment they were the laughing-stock of all Europe: he really believed that abroad every body laughed in his sleeve to see a single woman put at defiance the whole of his Majesty's government, supported as it was by the Holy Alliance, who had lent them their aid as far as it would go.—(*Cheers and laughter.*) He was apprehensive that the support of such measures would in the end prove destructive to both church and state. When he said this, he was aware of the enormous expenses of the establishment of the church; and he could not refrain from adding, that the millions which it cost the country were not necessary for the morals of the country. As for the expense of that establishment, he would appeal to Scotland, where, happily, there prevailed as much morality and as much good as in England, without any Bishops.—(*A laugh.*) They had heard in that house the most vehement declamations against Radicals, as they were called; but his Majesty's ministers were themselves the most violent of Radical Reformers; they were going on by their conduct to disgrace the character of the Bishops, and to degrade that of the Peers. These were ministers, who, he thought, ought to be impeached; and did he possess the means and the abilities, he should feel called upon to bring the matter before the house. Let them, however, wait till Colonel Brown permitted those who were to depose on her Majesty's side to come over without further obstacles; let them wait till they had heard the nature and extent of the evidence which they were to give. As far as he yet saw, however, he declared it was his opinion, that if any public men ever deserved to be impeached for their public conduct, his Majesty's ministers deserved to be; and he was quite astonished that those whom the people had been accustomed reverently to look up to as the patterns and protectors of the public morals, should venture to join—at least not to dissent from—the same conduct. Would they derive any credit from the attempt they had made? He maintained again that they had done more than had yet been done to degrade royalty, and to disgust a high-minded and free-spirited people. He did therefore entreat the House, in the first place, to consider whether, if they should

agree to the proposed amendment, they would not be depriving her Majesty of all means of rebutting the charges that had been brought against her; not that he for a moment doubted, whenever it came to the issue, that she would most completely and satisfactorily rebut them. He thought it would be manifest injustice to allow the case to stop here; for he would have even those who were the most sceptical in the matter—who thought they saw adultery in every motion of her Majesty—he would have those convinced, both as men and as Englishmen; and he trusted that, if they should be so, they would conscientiously avow that conviction. Deeming it unjust, under these considerations, to pause in this stage of the proceedings, he should content himself for the present by expressing his determination to vote against the proposed amendment.

Dr. PHILLIMORE explained.

LORD CASTLEREAGH, after the turn which this debate had taken, should not find it necessary to trouble the house with many words. But there were some situations in which discussions were brought forward upon grounds so little reasonable, and arguments adduced so foreign to the business properly before the house, and which, in his own mind, he might feel, could never have any influence in it, that he found it impossible not to offer some observations, however repugnant to his feelings it might be to be thus dragged into a debate of this kind. He was quite sure that the good sense of the house must be disgusted at finding that they were now occupied upon a debate on a proceeding still pending in the other house of Parliament (*Hear*); that the character of that house, and with it every thing connected with one of the most important measures ever agitated there, were thus unnecessarily dragged into a discussion; and that, in the judicial spirit in which an Hon. Member on the other side of the House had spoken, his impartiality and his penetration appeared to be summed up in this charge—that one of her Majesty's counsel had been shamefully browbeaten by the House of Lords. (*A laugh, and cheers from the ministerial benches.*) This might furnish the House he thought, with a true measure of the temper in which all the other observations they had heard had been made. So far from having any effect, indeed, with Hon. Gents. or any way degrading the illustrious assembly in question, they could only serve to show that there were persons in the country of minds and views so perverted, as to prompt them to attack the high character of an assembly which their attack could not reach. He had been very much surprised to hear the Hon. Member for Westminster assume (which he had no right to assume), that that House had already decided that it would not make any inquiry into the subject before them. That was a point which had never been decided. He (Lord Castlereagh), certainly had

proposed to bring the question to an issue; but Hon. Gents. would remember the steps which it had been at length agreed to take. Foreseeing that this inquiry would take the shape of a Legislative proceeding in the upper House, and afterwards come down there for their decision, the motion by which the matter had been so far disposed of had been submitted and agreed to. So far from the House having settled the question, this was, if he mistook not, the third adjournment upon it which they had adopted, being deterred from further proceeding in it by the necessity of the measure's coming down to them from the other House. And on the subject of the Bill's eventually so coming down from the Upper House, the Honourable and Gallant General (Sir Robert Wilson), would allow him to say, that it was not his resolution of throwing every possible object in its way which could prevent or retard the coming down. The Gallant General had told them what he would do; he would, of course, conduct himself as he thought fit; but perhaps he would permit him (Lord Castlereagh) to observe, that by such predetermined opposition he would not much raise his character either with the Country or the House. But the fact was, he could not prevent the House of Peers from sending down the Bill to them; and if that House, as it was competent for them to do, chose to send it, they (the House of Commons), must dispose of it in one way or the other. The Gallant General, in the prosecution of his endeavours, might oppose the first reading, for instance; but neither he, nor any of the judicial assistants by whom he appeared to be aided, could help the Bill's regularly coming down. He thought it would not be very consistent in them if they should endeavour to get rid of the Bill without any inquiry or discussion at all; and he submitted to the House, that unless they were prepared to run counter to all their proceedings, and to act in an unusual and hasty manner, the very limited attendance of the House—which had happened, of course, in the contemplation of an immediate adjournment—was a reason why they should not now proceed upon a question whether or no they should get rid of the measure altogether. With respect to the interests of the Queen herself, none of her Legal Advisers were in their places; although there was an Honourable Gentleman (not now, indeed, in his place) who spoke in the tone, if not of a legal, at least of a political, adviser of her Majesty, (*a laugh*). That Honourable Member spoke in the first person plural, and had said, "we" thought this, and "we" did that, and "we" felt, and "we" must consider—from whence he inferred that he was politically an adviser. (*a laugh*). As to the delicacy and disgust of an Hon. Gentleman opposite (Mr. Bennet) and the Gallant General, he would beg to know how they supposed the charges had been got up?

If the Hon. Gent.'s minds could bear nothing but broad statements of facts, and if nothing short of proof of the actual crime could satisfy him, he (Lord Castlereagh), for his part, could think of nothing more easy than to have fabricated such a fact, if those who deposed to the charges intended to depose falsely. Was his Honourable and Learned Friend, the Attorney-General, to be required to draw out a picture himself, which might suit the Honourable Gentleman? He could assure those who had leapt so rapidly to a conclusion in this case, that he feared they would not as yet be able to carry conviction with equal facility to the minds of others. If the Hon. Gentleman, by so conducting himself, and so inveighing against his Majesty's government, meant to protect the interests of the Queen, he really thought that he was not adding one iota to her defence, nor adding one feather to the weight of her testimony. He must be actuated either by an erroneous idea of serving her Majesty, or by a feeling which he (Lord Castlereagh) could not for a moment impute to him (as he could impute no motive but a just one) a wish to inflame the public mind. Every thing which had been said was only an additional reason for going on with the inquiry. If her Majesty was innocent, her innocence ought to be sifted to the bottom; and if the whole were a conspiracy, he could assure the house, no man would be more anxious to get at the fact than himself. But it was not by quashing the proceedings that either of these objects could be attained. Whatever might be the result, whatever decision the evidence might call for, he was confident that there was too much manly feeling in that house to shrink from the investigation on which Parliament had entered, or to shrink from discharging their duty from any considerations of delicacy, or from any representations of the temper of the country. If there was a conspiracy, that was an additional reason for proceeding with the investigation, and sifting the subject thoroughly. If there was a conspiracy, in the name of God let it be sifted to the bottom by full investigation of the evidence. If his Majesty's ministers had been deceived, he had been as anxious as the Hon. Gentleman to avert the consequences of this painful measure; and if his Majesty's ministers had been deceived by persons from various parts of Europe, speaking to various circumstances—and a better selection could not have been made for the investigation of truth—if his Majesty's ministers had been deceived, and if this was a conspiracy, the Hon. Gentleman would not say that his Majesty's ministers ought to have of themselves put a negative upon the information and charges without an investigation; but if this was a conspiracy, it was a conspiracy without example, and that was an additional motive for proceeding with the investigation, and, whatever the Honourable Member might

think, the course pursued was that which justice required. The Gallant General, who had spoken rather as if he considered this a military question, and not a judicial inquiry, had produced letters by which he endeavoured to trace the characters of witnesses in the other house, forgetting that the inquiry in that house had not terminated, and that the facts alleged could be there judicially inquired into. Why had he not handed the letter to the Hon. and Learned Gent. who conducted the Queen's defence, so that the circumstances might be inquired into on oath?—What could he have intended by making a garbled statement to the House, of circumstances which might have been regularly inquired into in the other house, for which might hereafter be investigated here? The Gallant General had distinctly charged that this was a Hanoverian conspiracy; and, as proof, repeated the often-told tale of Baron Ompteda having broken into the house of the illustrious person, and having attempted by most unjustifiable violence and outrage to get possession of the illustrious person's papers. He (Lord Castlereagh) had made inquiry, and applied upon the subject to Count Munster, whose feelings of honour and whose mind were as repugnant to any thing disparaging as any Honourable Gentleman's; and he (Count Munster) had assured him, that not only had he given no sanction to such proceedings, but he had expressly declared to him (Lord Castlereagh) that no such transaction had taken place. Several letters too, had been received by him, which spoke of Baron Ompteda in terms of the highest respect. As to the mode of calling him to account which had been alluded to, whatever might be thought of that as a mode of ascertaining truth, Baron Ompteda had lent himself in the most willing manner to the proposition of that kind which had been made to him. But he would put it to Honourable Members whether any thing could be more unfair than thus placing the characters of individuals in issue, who had no opportunity afforded to them of vindicating themselves or justifying their conduct? Another subject to which the attention of the house had been called, he must also advert to. He felt how foreign it was to the question before the house; he was sorry to fatigue the attention of the House by travelling so far out of the proper course, but the digression was very reluctant on his part. The Honourable Member had insinuated that there was a disposition to obstruct and embarrass the Queen's means of defence. Although the Honourable Member had spoken of what we had felt, he was not, his Lordship believed, one of her Majesty's advisers, because, if he had, he must have stated that his Majesty's advisers had done every thing that could be done in the execution of every wish of her Majesty, whatever might be thought or asserted by the counsel out of doors, who were generally not

the best counsel. No sooner had it become known that obstruction had arisen from the forms in Austria of getting passports for witnesses, than the inconvenience was remedied. If the Honourable Member meant to say that the forms of office abroad had been found inconvenient only on one side, then we were not well informed on the subject. It was not to be imagined that they could ride over every form of office and every ancient usage and establishment of foreign countries, and that foreign forms and rules should at once yield to every claim made upon them.—If the Honourable Member had been in their (his Majesty's ministers) counsels, his Hon. and Learned Friend could have assured him that he had found great difficulty in getting the necessary evidence abroad. Many important documents in the Milanese territory they had thought could be produced at once, but it was found that the extracts of the documents must be made at Vienna. Here he would say, and he owed it to foreign powers to say, that they were most anxious to do justice to the inquiry, and were not by any means partial on the subject. The documents were ordered to Vienna, and even there they could not be obtained, although the inquiry was then actually going on before the other House, but they were sent back and certified at Milan, and the documents were not obtained till the case for the prosecution was closed in the Lords. The most pressing solicitations of Colonel Brown and Lord Stewart for his Honourable and Learned Friend had been quite unavailing. This circumstance he mentioned only to make it understood, that if obstructions and inconveniences arose, they were not altogether on one side, for the circumstance he had stated was a tolerable proof that difficulties were felt on the other side too. It was quite manifest that all the forms of office could not be dispensed with on such occasions. The Austrian government acted with the same equal spirit on both sides. The moment the communication had been made to him of the obstruction which occurred, he set himself to remove it. Dr. Lushington was the Hon. Gent. to whom he made the proposition, and he executed simply and entirely the wish of the Queen's counsel. On the question itself he had nothing to say. The House had already three times given their opinion, and no human mind could doubt that honour and justice required that parliament should proceed to investigate the charges which placed the Queen in the dreadful, and he would add, painful situation in which she was at present placed. If he did not forget the gallant general's language, and he recollected the words of the Hon. member near him (Mr. Bennet) at moments when ministers were anxious to avoid this investigation, the Hon. members were loud in their taunts. Why not produce specific charges, they asked—why not state distinct charges? Why not bring forward their accusation? (Sir R.,

He did not pretend to collect the words, but the general cry was that effect. The Hon. Gents. on the other side cried out, but very inopportunistically, on a subject; for when they (ministers) wished for inquiry, the Hon. Gents. opposed it; when they were not for inquiry, then nothing was to be heard from the Gents. opposite but inquiry. As to the feeling out of doors, he felt painfully as any member the deep sensitiveness created by the details of this investigation. He knew the generous feeling of this country; he knew that their feelings were alive to such a case, and particularly when the sex was implicated which they all felt most anxious about, and most desirous to honour. But he hoped he did not regard this feeling with unbecoming dismay. He was confident that this anxious and important question, after investigating all the circumstances in which it was involved, and with which it was connected, would be so settled as to satisfy the feeling of the country.—(Hear.) He felt confident that it was impossible that injustice could be done, when the investigation was honestly conducted in the face of the two august assemblies of parliament, in the face of the country, and in the face of Europe.—(Hear.) He wished Hon. Members had prevented themselves from speaking upon the subject in the tone in which some had indulged, and suspended their judgment till the whole of the evidence should be before them, whatever the effect of that evidence might be. Members, of that house, at least, ought to come to no conclusion upon the charge, or to evidence in support of the charge, till they had heard her Majesty's defence. The Hon. Members had not, he was satisfied, intended to produce such an effect; but their language this night would have the effect of encouraging, as on all occasions, a party—not numerous he trusted—who fastened on this, as on every public calamity (Hear. Hear.) whether a mutiny in the fleet, an enemy, the evils of a long-protracted war, or the distresses of the country—which they could ascribe to the acts of the government whether justly or not he did not now inquire) or this calamity—which befell the country after every effort had been made by ministers to avert it. This disastrous subject was fastened on by the party to whom he alluded, with the hope of making it the means of effecting their base and wicked object of subverting the laws and constitution of the country. There was much of generous delusion in the country, which he respected, wound up with this question. If Hon. Members wished the elements of this delusion to be dissolved into their distinct and proper parts—and if they wished the traitor to be put down—let them not follow the course which they had taken this night: for, in the effect of their language, they were countenancing, co-operating, and assisting, in the most mischievous designs, by the tone of intimidation

and the tone of precipitation which they adopted, and which would admit no honest and sound discretion to the consideration of the subject. Such a tone was calculated to give countenance abroad to the most mischievous spirit. He trusted, however, that nothing which had fallen from the other side would prevent that house from taking that temperate course which justice required, if the bill should come down to them. Whatever warm feelings members might have expressed to-night, they would feel their error when they should come to consider the subject judicially, or they would feel that their influence was very feeble to prevent the course of public justice. The house would discharge its duty, as on all difficult questions, and (as it had often done in perilous times, with an enlarged view of the case, and of the interests of justice.—(Hear, hear.)

Mr. MABERLY could not refrain from stating the reasons which dictated his vote upon the present question. He had had the honour of supporting the noble Lord on the 22d of June, when the House had resolved that the discussion of this subject, whatever might be the result, "could not but be disappointing to the hopes of Parliament, derogatory from the dignity of the Crown, and injurious to the best interests of the nation." (Hear, hear.)—How, he would ask the Noble Lord, if he (the Noble Lord) was of that way of thinking on the 22d of June, how could he now deny that, whatever the result might be, (for that was the precise expression used on the 22d of June), the best interests of the country would be affected if the Bill came into that House? (Hear.) The Noble Lord said, he did not fear public clamour, neither did he (Mr. Maberry) fear public clamour. The Noble Lord had dealt out his admonitions to this side of the House in a very general and liberal manner, and said, "Don't come into the consideration of the subject with such views and with such sentiments." He did not want the Noble Lord's admonitions; (Lord Castlereagh said something which we did not hear;) the Noble Lord had addressed his admonitions generally. He had taken no part in this question out of doors, or in that House, and he would endeavour to discharge his duty as well as the Noble Lord (Hear); but he regarded public feeling, and he therefore would now vote for the amendment on the same ground on which that House had resolved that the inquiry, whatever might be the result, would be injurious to the best interests of the country. His vote this night would be founded on this as one of his reasons. He wished he were not obliged to vote at all. But he must vote for the amendment on the ground of consistency; and in this he was borne out by the Noble Lord himself, who had voted that this inquiry was injurious to the best interests of the nation. (Hear, hear.) If he wanted any further argument for taking this course,

It was supplied by a Noble Lord in the other House, who had suggested that the divorce clause should be removed from the Bill, and by the declaration made that his Majesty had no personal views in this question. Would any man believe that the nation had any personal views? (*Hear*). Would any man honestly say that this measure was not contrary to the feelings and wishes of the nation? It was of no importance whether the Queen was guilty or not, compared to the interests of the nation. On that ground he voted against the further proceeding with this investigation, and in doing so he discharged his duty as fearlessly as the Noble Lord. (*Hear, hear.*)

Mr. CREEVEY rose to give his reasons for supporting the Amendment. The Noble Lord had spoken of the course adopted on his (*Mr. Creevey's*), side of the House as calculated to encourage mutiny, disaffection, and treason. Nothing in the world was so regular as the Amendment moved. This was the most important question which had come before Parliament in his time, and there was no mode in which they could give their opinion of it but this. On a former occasion the difficulty opposed to a similar Amendment was that the case had not been heard fully. Now that difficulty was removed. But he had not wanted the evidence to convince him that the investigation should not proceed. The injustice of the measure was so great, that the evidence went for nothing. (*Hear, hear.*) That was the opinion of the people. (*Hear.*) The crime with which her Majesty was charged was not criminal by law, and therefore an Act of Parliament was to be passed to constitute the crime and to inflict the punishment. For five-and-twenty years the illustrious lady had been assailed with every persecution. When she had been induced to go abroad, she was instantly followed and surrounded with spies. A conspiracy of all the Potentates of Europe had been formed against this single individual. A prosecution originated and supported in this manner was reprobated independently of all evidence.—(*Hear.*) He had heard the evidence adduced. Some stated that compulsion had been used, some that our Ambassadors had by force required their evidence. Then the resources lavished to obtain evidence became apparent. There were such a multiplication of calamities heaped on one individual, and that individual a Princess of Brunswick, and that individual the wife of our King, that it was perfectly impossible that in such a host of calamities any trace of justice could be discovered. The Noble Lord had said, that it was a matter of justice; but it was such a series of gross and palpable violations of justice as would never be forgotten. Why was it that at the distance of 200 years the case of Mr. Hampden, a plain country gentleman, was familiar to every individual? It was because he was obliged to defend his property from

the spoliations and plunder of Charles I. supported by all his power and influence. However the Noble Lord might view it, the accumulation of injury and insult upon the illustrious individual now prosecuted produced a feeling not less intense in its operation, and that would not be less remembered by the middle and lower orders. (*Hear, hear, hear.*) He felt no disrespect towards the aristocracy: on the contrary he regarded them with every respect. In all the great struggles of this country of freedom, and at every period of our history, the aristocracy had been the great assertors of our liberties. He wished all orders to be in unison, rather than separated as they now were. The great and general objection to this bill was, that it was degrading to every institution of our country. It was a bill to degrade the Queen—it had already degraded the Lords. The Peers of England had been day after day sitting in judgment on what every master of a family was obliged to hide. (*Hear.*) Had the Noble Lord never seen in the other house some of the Lords cheering when any thing was stated unfavourable to the Queen? (Lord Castlereagh, "No.") He had heard it with his own ears. They had often heard of Counsel being brow-beaten by Judges, but there the Counsel had reprimanded the Judges. (*A laugh from the Treasury Bench.*) More than once had he heard the Counsel ask what that exclamation meant, and add, if it meant any reflection, it was the first Court in which they had observed such conduct. (*Hear, hear.*) The Bill had then unfortunately degraded the aristocracy. When the case for the prosecution had been closed, then came the intimation of withdrawing the divorce, a clause which formed an inseparable part of the bill. Did any Hon. Member think that there was no degradation in making such an intimation? The Hon. Member for Shrewsbury had stated this point as it really presented itself to every mind. Every degradation, every writing, every opinion, every attack on his Majesty were feeble compared to what the Government did when they proposed to withdraw this clause. [*Hear, hear.*] In what situation were the House of Commons to enter into this inquiry—a Jury of 600, with no power of administering an oath (of this he did not complain), and with a power of only asking questions through the Chairman of the Committee of Ways and Means. In the other house he had seen peers instructed by the Judges what questions they should ask, and he had seen the Judges retire to deliberate whether certain questions could be asked. This advantage that House could not have. The constitution would be flagrantly violated by receiving the body of evidence from the Lords. These were the reasons. To put a stop to this calamitous inquiry was the only mode of preventing every thing dignified in the state from being degraded; it

was the only mode of preserving the administration of justice inviolate; above all, it was the only mode of harmonizing the higher, the middle, and the lower orders of society. (Hear.)

Mr. P. MOORE regretted that the motion of the Noble Member for Cambridgeshire (Lord F. Osborne) had not been carried on a former night. The objection urged then had been, that as the accusation had begun, it was fit and proper that an opportunity should be given for repelling it. At that time the evil had been small, compared to what it was at present, and that was the only circumstance that formed in his mind a drawback upon the amendment of the Honourable Member for Westminster; but he would support it, and in doing so, he would act in unison with his constituents, who had a meeting on the subject, and instructed him to resist every step of this inquiry. The Noble Lord's objection appeared the least of all objections on the subject. The Noble Lord had contended that public justice required that an inquiry of this nefarious character (for it was nefarious) should be further continued. But a day of reckoning would come, and it was not far distant. He had given the subject every possible consideration—he had looked at every pretence on which it had been brought forward—he had weighed all the evidence; and his solemn conviction was, that this was as dark and foul a conspiracy as had ever been formed, and that his Majesty's ministers were at the bottom of it.—He would not mince it. He repeated it was as foul a conspiracy as had ever been formed, and that his Majesty's ministers were at the bottom of it. He had reflected on the state of the public mind, and that there was but one opinion as to rescuing the public and his Majesty from the hands of his ministers, and saving the monarchy; for the monarchy was hazarded. He gave no opinion of the guilt or innocence of her Majesty. On that subject there should be no doubt after the ship-loads and cart-loads of evidence which had been imported. (A laugh.) But his great objection was on the ground of the public interests, and to rescue the monarchy from danger. Ministers had dragged the monarch to the chin in dirt and filth. For what purpose? What, but to get themselves out of the foul conspiracy? After the house had resolved that inquiry was injurious to the best interests of the country—after Ministers proceeded to add to those injuries.—Till the country saw their interests out of the hands of those men, how could they think justice, liberty, the constitution, property, any thing, in safety? Who were the accusers? He wished to know by whom this inquiry was instituted. He should wish the house to be informed who were the authors who had had the drawing of this Bill of Pains and Penalties. The Attorney-General had stated that he acted under the orders of

the other house. There was, however, but one opinion prevailing throughout the country, that all further prosecution of this inquiry ought to be immediately put down.—Every day it was hazarding the affections of the people to their government; every day it was giving rise to other questions of a no less dangerous nature. It was asked in many places whether, if a Queen could be set aside by a proceeding of this kind, persons of equal or higher rank might not also become the object of a similar measure. It was inferred that the Bench of Bishops, that the House of Lords itself, might, if circumstances should so happen, be treated with as little respect. Was it wise thus to open the way to discussions which could not be advantageous, and to force names and institutions which ought to be held sacred, upon public attention in this point of view? For his own part, he believed the inquiry had been gone into, and that the bill itself had been introduced, only as an indemnity to ministers for the conduct which they had previously observed towards the Queen. It was with this view that the other house had been led into its present extraordinary situation; it was for this purpose they had assumed the office and character of political judges. Now, what was the true meaning and definition of a political judge? In other courts judges were bound by their particular oaths, and by established forms of proceeding, and nothing was considered more detestable than what was considered a political judge. Amongst the political judges of the Queen, however, were some even of her accusers; and the person who presided at the tribunal, and who gave a tone and direction to the whole court, was the first minister of the Crown.—(Hear.) If the large assemblies—if the many thousands in this metropolis who had expressed their opinions on this subject, were not all in error—if their unanimous voices did proclaim the truth, as he in his conscience believed it did, then not only was the Queen an innocent woman, but the charges against her had originated in a foul conspiracy. He sincerely regretted that the house had not interposed at an earlier stage so as to stop the prosecution effectually; or at least to prevent its going to the outrageous and disgusting length to which it had been carried. The ministers of the crown had so degraded their sovereign, that if recrimination were now resorted to, lie upon the ordinary rules and principles of such proceedings, might be cited as a witness, to put in his answer to charges against himself. He had received a letter only two days ago from a man of high character and professional talents now in the course of his travels, and who represented the general sentiment of the country where he then was, to be that England was degrading the laurels which she had acquired by so many victories, and that the sun of her glory was about to set for ever.—(A laugh.) He could assure them that this was the letter

of an eminent man, well known in the circles in which he moved, and the pride of the profession to which he belonged. He believed he had said enough to point out the danger to which the constitution, the Bench of Bishops, and all the constituted authorities of the realm, were exposed, by a proceeding which the House would have done well to stop when at an earlier period a Noble Friend of his (Lord F. Osborne) had made a motion to that effect.

Mr. ELLICE was under the necessity of differing from his Hon. Colleagues on the subject of the proposed amendment. If, consistently with any principle of justice, or if he could persuade himself that it would have the effect of limiting the calamitous consequences which every day became more apparent, he should readily sacrifice his own opinion to that of his Hon. Friend's. But as he did not think it likely that the amendment would be carried, he must frankly say that he saw no reason to concur with it. The evidence against the illustrious person in question had gone forth to the public, accompanied by the statement, summing up, and comments of the law-officers of the Crown. To him it appeared that it would be gross injustice not to allow her the opportunity of rebutting it, and of proving what had been asserted, that the charges were the offspring of a foul conspiracy. Upon these grounds he felt obliged to vote against the proposition for now putting an end to the inquiry, although it would give him extreme satisfaction to support any motion that could stop the further proceedings, if that measure was not at the same time an act of injustice towards the illustrious person accused. He would also state his determination, if the Bill should unfortunately come down to that House, to oppose the first reading of it, on the principle that Bills of such a description ought never to be entertained except in cases where they were essential to the public safety.

Sir M. W. RIDLEY expressed his concurrence in the views stated by his Hon. Friend who had just sat down, but he rose for the purpose of putting a question to his Majesty's ministers, which in his opinion was of importance both to the character and dignity of the government. He had observed in a report of what had passed at a recent meeting held at the Crown and Anchor, that an Hon. Baronet (Sir G. Noel) who presided on that occasion had read a letter from a worthy Alderman, in which it was said that the defence of the Queen had been left short by the want of pecuniary assistance from Government. Such a representation was, he trusted, erroneous; but, if correct, his Majesty's ministers must, he was persuaded, incur the heaviest displeasure of that House. He wished also to inquire whether there was any objection to lay before the House the amount of the sum advanced for the purpose of her Majesty's defence, and availed himself of this

opportunity to observe that the Noble Lord had fully vindicated administration from any charge which had been brought against it.

The CHANCELLOR of the EXCHEQUER said, he was perfectly prepared to give the Hon. Baronet a distinct official answer to the question which he had put. He could assure him in the first place, that every sum for which application was made by the Queen's legal advisers had been advanced, with an intimation from the Treasury, that if any further sums were deemed necessary they would be cheerfully furnished, subject only to such an account as the legal advisers of the Queen should be able to render.

Sir M. W. RIDLEY asked what was the actual sum advanced on account of the defence?

The CHANCELLOR of the EXCHEQUER replied, that the whole amount of what had been advanced was 20,000*l*. The sum of 10,000*l*, was advanced before the proceeding commenced, and a second sum of the same amount a few weeks since.

Mr. HUME wished to know how many days had elapsed between the application for the second sum, and its actual advance.

The CHANCELLOR of the EXCHEQUER said, no further time had elapsed than was strictly in accordance with the forms of office.

Mr. S. C. WHITBREAD wished to state in a very few words the reasons which induced him to support a motion which had for its object an immediate abandonment of the proceedings against her Majesty. In his opinion the calamitous consequences which they had a tendency to produce, and were really producing, became more obvious every day. He had never indeed been able to discover what good or beneficial end was to be answered by them. It was said that the subject had been taken up out of a regard to public morals; but who would say that public morals would not have been more respected by a suppression of the inquiry, than by blazoning its details throughout the country. But if the interests of morality formed the chief object of this proceeding, he hoped their search would not be limited to the conduct or manners of the Queen. (*Hear, hear.*) The Queen was indeed the first subject, and it was proposed to make her a great example; but perhaps there were persons as high, or even higher, whose example might be yet more important. The evils of proceeding further with the Bill of Pains and Penalties were inevitable, the advantage none. He should only add, by way of notice, that as the House had received information with regard to the sums advanced for the defence, he should as soon as the present question was disposed of, move for an account of the expenses incurred in the prosecution.

Mr. LENNARD felt it his duty to protest against the doctrine of the Noble Lord, that it was improper for this House to interfere

with the proceedings of the House of Lords. He was surprised to hear such an opinion expressed by any Member of the House of Commons. If there was one right better established than another, it was the right, he should rather call it the duty, of the House of Commons to check and to control the House of Lords, when it was assuming to itself any dangerous or unconstitutional power. This was a right repeatedly exercised by this House. In the time of Charles the First, when the House of Lords attempted to exercise, in the case of Skinner against the East India Company, an original jurisdiction, the House of Commons interfered, and checked this dangerous assumption of power. He thought, therefore, that the honourable Member for Westminster was perfectly justified in the motion he made. He could not, however, support that motion. Agreeing with the Member for Middlesex, that the proceedings against the Queen were injurious to the interests of morality, still he thought that, as the poison had been sent forth—as treason had done its worst—that the Queen should be allowed to apply an antidote to that poison: it would be unjust to deprive her of this right; the more so after the declaration made by her Attorney-General, at the last meeting of the House, when a similar motion was made, that the trial must then go on—that it was too late to recede. But if gentlemen thought the Queen stood acquitted by the evidence brought against her, still there was another party—the country. It was right the Queen should have an opportunity of showing what was the character of the witnesses brought against her; for if it should appear that they were the dregs of Italy, that they were perfectly unworthy of credit, then the Ministers would have incurred a heavy and serious responsibility. The country was looking at the present trial as the trial, not of the Queen merely, but of the Ministers. In voting against the motion of the Hon. Member for Westminster, he did not conceive that at a future time he would be precluded from opposing the bill at the very threshold of the house.

SIR GERARD NOEL declared that he could not reconcile it to his feelings to give quite a silent vote upon this question. He believed that the Bill under consideration was altogether without a precedent since the revolution. The House of Lords had never since that period assumed the kind of jurisdiction which they were now exercising. He had heard with much pleasure the sentiments expressed by many Hon. Members, and was confirmed in his resolution of opposing the Bill in all its stages.

Mr. ALDERMAN HEYGATE said he was originally of the opinion of the resolution of the House, that the discussion of this affair of the Queen must, in any result, be injurious to the best interests of all the parties. Every thing had since concurred to

strengthen this opinion, and to show the impolicy of suspending the business of a great country on account of the conduct of an individual, and a subject, however exalted in rank. It would not now be fair to stop the proceedings until both sides had been heard in the House of Peers. When that had taken place would be the proper time to pause and consider what course it was best to pursue. In the mean time the Hon. Gentleman deprecated the unconstitutional language used on behalf of the Queen to induce the army to interfere in political questions—doctrines, which, in former times, would have called forth the notice of all who valued the constitution. He called upon every one professing to love freedom to pause before he used, or countenanced even by his silence, such language, and to reflect that the same arms which might one day be used in behalf of what he thought right, might be turned on the next in favour of despotism. As there was no evil out of which some good might not be extracted, he trusted that what he had alluded to, (without intending in the least to doubt the loyalty and fidelity of the British army), coupled with the late military revolutions on the continent, would induce the government to reduce the excessive standing army, and to trust in time of peace to a more constitutional force. By so doing they would indeed strengthen the throne by satisfying the rational and thinking part of the country.

Mr. KETH DOUGLAS observed, that the consternation and dismay which had been represented as now prevailing were in his opinion to be ascribed rather to the influence of the press than to the extent of our military establishments. He took a view of our danger somewhat different from that entertained by the worthy alderman who preceded him. Every one who wished well to the prosperity of the country must lament to see the public press so mischievously, so ably, and so successfully labouring, in a way that was not adequately resisted, to inflame, discontent, and to increase public alarm. He thought it would be improper for Parliament to separate without an understanding that his Majesty's ministers had some measures in contemplation for correcting the license of the press. (*A loud cry of Hear, hear, from the Opposition benches.*)—He might be imperfectly expressing what he meant, but he did see in the evil of which he complained a danger truly alarming. It was far from his wish that the liberties of the Country should be curtailed; but the question was, whether some remedy ought not to be applied to a great evil? The case of the Queen was one subject of consideration, but it was brought into connexion with various others by the journals and publications of the day. The press had assumed a new character; it was conducted with unusual ability, and was incessantly employed in propagating its doctrines. The conse-

quences were evident; they found addresses presented of a new description, coming from large bodies not before accustomed to assemble together for such a purpose. As an instance he might refer to the address lately carried up to the Queen by a great number of seamen. The metropolis was upon that occasion thrown into great bustle and alarm, but scenes of the same kind were perpetually occurring, and if multitudes were thus frequently brought together, they must be liable to the contagion of bad passions. A meeting was advertised for next Monday, at which probably many thousands would be present; and what he contended was, that those circumstances were of a nature to excite and perpetuate alarm. To say the least, they were productive of great inconvenience, and he felt it his duty to state the evil, although he might not perceive the best means of redressing it. In his opinion the Government of the Country should come forward and assure Parliament and the Country, that as far as it was in their power, as far as they were in possession of legitimate means, they would exert them for the prevention and suppression of tumult. The public mind might then perhaps be relieved from the apprehension of the mischief spreading any further, or of its endangering our institutions.

Mr. BERNAL wished to make only three remarks. Did the Hon. Gentleman who spoke last consider that his Majesty's Ministers had not duly exercised the power intrusted to them, or did he wish them to produce a new edition of the late acts for regulating the press? If there was any danger in what was now going forward, the House of Lords had not shown any apprehension of it; they had imposed no restriction on the publication of the entire proceedings, and had suffered evidence to go forth to the world which must necessarily have the effect of casting a slur upon the Queen's character. That House would also do well to cherish the liberty of the press, and not allow it to be cut down in a bye-way. If it was conducted with superior industry and talents, that was an additional reason for pardoning its occasional errors.

Mr. HOBHOUSE observed, that although as a young member he felt diffident in pressing the house to a division, yet the question appeared to him to be so important that he was placed under the necessity of exercising his right.

The house then divided—

For the amendment, 12

Against it, 66

Majority for the original motion, 54.

On our re-admission to the gallery we found,

Mr. COKE presenting the Petition of the inhabitants of Norfolk, praying the House to take such measures as in its wisdom it might

deem fit for the putting an end to the proceedings against her Majesty. The petition set forth, among other matters, that the fact of a negotiation having been entered into with her Majesty, and large offers having been made to her to induce her to remain abroad, afforded presumptive evidence that she was innocent; and the petitioners expressed their hope that the house would petition his Majesty to order the re-insertion of her Majesty's name in the Liturgy.

The petition was laid on the table.

On the motion of Sir G. Warrender, the Speaker was ordered to issue his warrant to the Clerk of the Crown, directing him to make out a new writ for the burgh of Aberdeen, in the room of James Fergusson, esq. deceased.

DUKE OF YORK.

Answer to Message, 21 August, reported as follows:

I have received with gratitude the Message of Condolence which the House of Commons was pleased to send to me on the Loss which I have sustained by the death of my late beloved Consort the Duchess of York, and I request that the House of Commons will feel assured of the sense which I shall ever entertain of its attention to me upon this melancholy occasion, and of the interest which it has expressed in my affliction.

KROUS, (OR CROUSE) THE MILAN COURIER.

Sir R. WILSON, seeing the Noble Lord (Castlereagh) in his place, was extremely anxious to ask him a question of some importance, to which he hoped the Noble Lord would have no objection to return an answer. In doing this, it was necessary for him to state to the Noble Lord, that a man of the name of Krous, had been employed by the Milan commission, as an extra courier, (not as the courier of the Government,) and had, in that capacity, been frequently sent from Milan, on different matters connected with the business of the commission. In proceeding to England, it was understood that this person was arrested in Paris, on the charge of having forged Bank of England notes in his possession, to the amount of 310l. The notes were sent to England to be examined, and they proved to be forged. When he was apprehended, he was asked, whether he had attempted, when going to England, to pass those notes in Paris? To this interrogatory he made no answer. To a second question he stated that he had received the notes from a person at Milan. An officer of police was

in consequence dispatched, to inquire whether the notes were really given to him by any person in Milan; he being committed to prison till the return of the officer. Now the question he would ask was this: It had been confidently stated, that Sir Charles Stuart made repeated and earnest demands to the French Government for the release of the individual so charged, and that he was in consequence released; although the police officer, when he returned, stated that he could not find the person from whom Krous said he had received the notes: he wished therefore to know, whether such an application had been made by Sir C. Stuart, and whether the British Government knew of the transaction?

LORD CASTLEREAGH said, though he was not able to answer the Gallant General's question to its fullest extent, he was happy in having an opportunity of stating what he knew of this business—a statement which he conceived to be due to the individual mentioned. Under the circumstances of the case, his answer must necessarily be a general one, but he would give the Gallant General more detailed information on the subject, if he thought proper to call the attention of the House to it. He regretted that an opportunity had not occurred in a former debate that would have enabled him to give to the House the explanation he was about to offer. The individual in question was a person who had long been employed in the King's service, when the transaction of different missions required it. Of late he had been very frequently employed in conveying dispatches from Milan. On one of those journeys he was detained in Paris, in consequence of his having notes which were represented to be forged. Sir Charles Stuart did, in consequence, make those representations which he was obliged to make, under the peculiar circumstances of the case. This led to an investigation of the affair; and, as the individual was again employed in our service, it would appear that he had been completely justified. The French Government withdrew all proceedings against him; and, if he were correctly informed, no stain or suspicion rested on his character.—He was glad that the question was asked, because the explanation would set Mr. Krous right with the world. If the Gallant Gen. could point out to him any mode by which farther information could be obtained, he would accede to it; and, in justice to Mr. Krous, he would agree that the circumstance should be investigated. He believed that nothing could be adduced detrimental to his character.

EXPENSES ATTENDING THE PROCEEDINGS AGAINST THE QUEEN.

Mr. C. S. WHITBREAD rose, in conformity with the notice he had given in the early part of the evening, to move that an account of the sums expended in the prosecution of the Queen be laid on the table,

from the earliest period when the proceedings were first instituted, down to the present time. At any other period he would have given the formal notice usual on such occasions; but the peculiar circumstances under which the House had assembled prevented him from adopting that course. Besides, he conceived that not the least opposition could be made to the motion. He was induced to call for this account, in consequence of many reports that had gone abroad, as well as of many statements which had come out in the course of the evidence (with all of which they were acquainted), from which it appeared that some of the witnesses acknowledged that they had received very large sums of money. It was well known to Gentlemen, that an account of all monies allowed for the use of the Queen in the course of the present proceedings had been granted elsewhere, and it was, he thought, necessary that the amount of sums furnished to the other side should also be produced. Indeed it appeared to him that his Majesty's Ministers must feel obliged to any person who afforded them an opportunity of removing any portion of the odium which was connected with this filthy proceeding. Many reports, they all knew, had gone abroad as to the immense sums that had been spent in the prosecution of this object; and he wished to know, by means of the account for which he had moved, what expense had been incurred by the Milan commission. He thought that the whole of the circumstances connected with this case, in whatever point they were viewed reflected any thing but honour on this country. He should not trespass further on their attention, but move "That there be laid before the House an account of all sums expended from the period of her Majesty's departure from England, in the year 1814, up to the present time, with respect to the proceedings carried on against the Queen of England; including all sums paid to his Majesty's Ministers at Foreign Courts, and all sums paid to the commission at Milan."

LORD CASTLEREAGH said, if the Hon. Gentleman had intimated to the House that he merely wished for a statement of the general amount of the public expenditure connected with this matter, although he (Lord Castlereagh) might consider it not prudent to call for such an account, still he felt it was one which might have been granted; but certainly, the motion, as it now stood, was extremely unsatisfactory; because the Hon. Member had not called on the House for a short statement of the expenses incurred by the whole of the proceedings, both those that were necessary in supporting the bill, and those that were called for in opposing it. The Honourable Gentleman called for a detailed account, on one side, for the purpose of examining adversely, and criminally, if he pleased, any part of that expenditure which he thought proper. Now, to what point the

House might hereafter deem it necessary to extend its inquiries, he thought that the present was not a moment for an introduction of an examination of this subject. He could assure the Hon. Gentleman that there was no disposition on the part of his Majesty's Government to withhold proper information from the House. In fairness to his Majesty's Government he must say, that they were ready to grant any information that could be considered just and reasonable. With respect to the auditing of the account, such an audit, with reference either to the expenditure incurred for or against the Queen, could not take place in that House, on any known and recognized principle. He could, however, assure the Honourable Member, that there was no part of the expenditure in support of the Bill, including even that of the Milan Commission, which should not undergo precisely the same description of audit as would be applied to her Majesty's expenses. That expenditure ought unquestionably to receive a proper audit, and ministers were ready to submit it to an audit exactly the same as that to which the expenses incurred by the proceedings against the bill would be subjected. But they did not think that that audit should take place in the House of Commons, nor did they contemplate the present as a fit moment for entertaining the subject, when the proceedings were in progress, and vouchers were not in a proper situation for being audited. He should, therefore, move the previous question.

Mr. WHITBREAD said, he had stated that he was induced to make this motion in consequence of an account that had been applied for in another house, relative to the expenses incurred on the part of the Queen, which they all knew must be a mere trifle when compared with the sum expended in support of the bill. If this were not a proper and convenient time to ask for an account of the sums issued in supporting the bill, he could not imagine how it could be treated as a proper and convenient time for granting an account of the expense incurred in defending the Queen.

LORD CASTLEREAGH said he had no objection to laying the gross amount of the expenditure on the table of the House; but he believed it was not the intention of the Hon. Member to enter into the question of the general expenditure, but as he understood him, to examine the expenditure in detail, and to object to some part of it. He would not press the previous question, but move for an account of the gross expenditure, as far as the same can be made up.

Hon. H. G. BARNETT wished to know to what account the sums of money issued in the course of these proceedings were charged? or whether they were furnished out of secret-service money? He did not know under what authority, or by what power, ministers could take 30, 40, or 50,000*l.* of the public money,

whenever it was called for, to prosecute this business? The Hon. Member then observed (as we understood), that it was stated on a former night by the Noble Lord, that the proceeding had been instituted at the desire of the Duke of Cornwall, by his chamberlain. Now the duchy of Cornwall produced an income of 14,000*l.* or 15,000*l.* a year. This was a large income; and if the Duke of Cornwall wished to get rid of his wife, he thought the expense should be defrayed out of his own revenue, and not out of that of the public. He wished to know from what fund the sums of money expended on this occasion, whether great or small, were derived?

LORD CASTLEREAGH said that the expense of the proceedings which had taken place abroad was defrayed from the secret-service money; but when those proceedings had ceased, and the matter came to be considered publicly at home, the expenses could not then come out of that fund. The whole of the expenditure that had occurred abroad would be specified under the oath of proper persons; and the entire of that secret-service-money expenditure would, in order to make every thing perfectly clear, be subjected to the same species of audit as her Majesty's expenditure, in opposing the bill, would undergo. By this means, the whole matter would be placed in the clearest and most satisfactory point of view.

Mr. HUME said it was fresh in his recollection, when the vote for secret-service-money was last before that House, that he put a question to the Noble Lord, having at that time in his mind the expenditure of the Milan commission. He had stated the great amount of the vote demanded, and the answer he received, to the best of his remembrance, was this:—the Noble Lord had said that the house must be aware that, during a long war, expenses would be incurred, chargeable on the secret-service-money; which would not end at the termination of hostilities, but must be provided for during some time after. From this answer he did not think that any part of the secret-service-money could be intended for the Milan commission, because the question was expressly put, in order to ascertain whether it was possible for his Majesty's Government, consistently with their oath, to take sums out of that fund for such a service? Now, however, to his utter astonishment, he found that they did make use of a part of that money, notwithstanding their oath, to effect this dirty purpose.

LORD CASTLEREAGH said, if he recollecting rightly, the Hon. Member asked him a question as to the gross amount of such secret-service-money for the year. He observed, "Why, as you are now at peace, is there a necessity to call on parliament for so large a sum on account of secret services?" and he (Lord Castlereagh) stated in answer, that though the country was at peace, charges had grown out of the latter part of the war, which

it was necessary to provide for. Now, with respect to the sum paid out of the secret-service-money on account of the Milan commission, he would find it by no means so large as he imagined. The sum distributed over the two years prior to the public proceedings in this case, was either 9000*l.* or 10,000*l.*; and he did not know from what fund it could be more properly supplied than from the secret-service-money. It was necessary to carry on the inquiry abroad, and the proceeding was one which, from its peculiar character, rendered the expense the more fit to be defrayed in that manner, in order to avoid publicity; and to give effect to the inquiry, the secret-service-money appeared to him to be precisely the fund out of which the expense should come.

Mr. MABERLY said he was desirous to know, as the Noble Lord had stated that one part of the proceeding was to be defrayed out of the Secret Service Money, from which fund his Majesty's Ministers intended to pay the residue of the expense? There had been no grant made by Parliament, and he knew not from what fund he could take that money.

LORD CASTLEREAGH said, after the period had elapsed when the expenses had ceased to be defrayed from the Secret Service Money, Bills were drawn by the commission abroad, and must be answered by the Foreign Office. They would of course be sanctioned by the Treasury.

Mr. MABERLY replied, that this was a most dangerous mode of proceeding, and contrary to the usage of that House. If Ministers had a right to take 1,000*l.* in that way, by the same rule they might issue 100,000*l.* or any sum they pleased. The answer of the Noble Lord was not therefore a satisfactory one. The more proper and constitutional mode of proceeding would be to take a vote of that House for whatever sum they might find necessary.

Mr. HUSKISSON observed, that the proceeding in this case was of the same nature as what took place with respect to the Army Extraordinaries. They consisted of items which had not been foreseen, and could not therefore be made matter of estimate in the first instance. The mode pursued was to take a vote for a certain sum, and in the next Session of Parliament, the items under that head were laid before the house. In this instance he thought that the expenses incurred might as properly be paid out of the civil contingencies, as matters that were connected with the defence of the kingdom. As to the law expenses, there might, but he could not speak positively on the subject, be another fund from which they might be defrayed; because a large sum had been voted to defray law expenses of a public nature.

Mr. CREEVEY said, there was a difference between the explanation by the Noble Lord and that which had been offered by the Right Hon. Gentleman. The former had

pointed to the Secret Service Money as the fund from which the expenses were to be defrayed; while the latter spoke of the civil contingencies. Be that, however, as it might, it was clear that, if the money were to be granted out of any public fund, Ministers ought to come with some proposition to Parliament on the subject. He was sure that the Noble Lord's construction of the Act by which the Secret Service Money was regulated was not correct. If it were, if Ministers could take such sums of money as those that had been mentioned, from that fund, under the plea that this proceeding came within the meaning of Secret Services, the most dangerous consequences might follow. If, when his Majesty chose to follow his wife abroad, and to make efforts to procure evidence against her, such a proceeding, could be supposed to come under the Act, as one, the expenses of which should be defrayed out of the Secret Service Money, it was time that the Act should be revised, and that some means should be devised by Parliament to prevent such an abuse of that fund. With respect to his Hon. Friend's motion, of course, he would only be able to procure the gross amount of the expenditure. But here he might be allowed to observe that, if the Bill did not come to this House, it would then be a mere private business, there would be no claim whatsoever on that House to make good the expense. What then would Ministers do? The only course left them would be to apply to the King's private purse, a course which, he believed, they would not very readily pursue.

Hon. H. G. BENNET said, the Right Hon. Gent. (Mr. Huskisson) had stated, that, in the case of the army extraordinaries, the estimate of the last year was produced in that which followed, and so on. Now this commission had been sitting for six years—(no, no)—at least for a very considerable period. The question, then was, as this point was denied, how long had it ceased to be a secret-service-money expense? If it were a secret-service-money expense up to its termination, then the account of the expenditure antecedent to the last year ought to be now before the House. He should be glad to understand when the business ceased to be of a private, and became of a public nature.

LORD CASTLEREAGH was willing to give every information in his power. When the proceeding ceased to be a private one, and became of a public nature, he went to the Treasury, and had a conversation on the subject; in consequence of which it was agreed that certain expenses should be charged on the civil contingencies. But, as it might be supposed that those charges did not come so strictly under the head of civil contingencies as to satisfy the guards that were provided by the act, it was deemed advisable that they should be examined in the like manner and by the same audit as that to which

the Queen's expenses would be subjected. That regulation would be extended even to the sums paid in the first instance.

Mr. HUME asked, whether the Noble Lord now admitted that the Milan commission was sanctioned by his Majesty's ministers from the commencement.

LORD CASTLEREAGH said: It had the full knowledge and approbation of his Majesty's ministers from the beginning. It was adopted, in order to prepare for carrying on the proceeding in its present form, if the charges were gravely supported; and, on the other hand, to set the matter at rest if they were found to rest on no solid foundation.

Sir G. NOEL.—If this House pay on-shilling of money towards supporting this proceeding, it will act criminally to the country.

The SPEAKER was about to put the question on Lord Castlereagh's motion, when his Lordship observed, that he meant a return of the gross expense incurred on both sides.

Mr. C. S. WHITBREAD.—The expense incurred by the Queen has already been asked for, and granted.

LORD CASTLEREAGH.—The document is not before this House.

The motion was finally agreed to in this form—"That there be laid before the house an account of all the expense that has been incurred on account of the proceeding carrying on against her Majesty, as far as the same can be made up."

MONTROSE ADDRESS.

Mr. HUME rose to present an address from the town of Montrose, deprecating the proceedings that were now in progress against her Majesty. He could not avoid expressing his surprise at the observations of an Hon. Gent. (Mr. K. Douglas), who, in the course of his speech, had called on his Majesty's ministers to devise some means by which the liberty of the press might be checked, and by which the demonstration of public feeling, manifested at different meetings convened for the purpose of addressing her Majesty, might be prevented. The respectable body, whose petition he held in his hand, had met, and had addressed her Majesty; and Hon. members had not, he conceived, any right to condemn them or others for pursuing that line of conduct. In his opinion, those who assembled on such an occasion, to express their feelings, deserved praise instead of censure; they acted in an open and Honourable Manner, and he trusted that such feelings would never be banished from England. When any thing like injustice appeared in progress, he hoped it would not be suffered to pass unnoticed by the people. If the Honourable Gentleman wished to know the reason of those meetings—if he wished to learn why sentiments of indignation were expressed at them, it was because the people were con-

scious that much injustice had been done to her Majesty; they felt it deeply, and he hoped they would continue to express their opinions. With regard to the press, was it not extremely strange that an attack should be suddenly made against the liberal part of it? Ministers had funds in their hands, which he believed, were given in various ways, to the portion of the press by which they were supported. And when he was touching on this subject, he would refer to an accusation that had been recently made—whether it was true or not he could not tell—which referred to this very point. A charge had been made, and it was said that it could be substantiated by several persons of credit, that part of his Majesty's plate—part of that plate which originally belonged to the Queen—had been seen at the table of Mr. Street, the late editor of the *Carrier* newspaper. He hoped, for the honour of the country, that no such thing had taken place. Such an accusation ought to meet a flat denial on the moment, for the credit of the government. It had been said on a former occasion, by a Learned Gentleman, that it was not in the power of his Majesty to give away a single piece of that plate, without the advice and concurrence of his Ministers. If, then, it had been so disposed of, the whole responsibility of the act rested with them. With respect to any fear that might be entertained from the number of persons going up to her Majesty with addresses, he could certainly remove any apprehension from the Hon. Gent. If he alluded to the presentation of the address fixed for Monday, for the persons who were to compose the procession then were to go up in coaches and four.—From such persons there need surely be no danger to be apprehended. With respect to the procession of seamen, he certainly saw it, and observed nothing among the crowd but the most peaceable demeanour. The same was indeed the case at all the meetings which had been held, and their conduct reflected the highest credit upon them.—(Hear.) The petition which he was now about to present, was from the Provost, Magistrates, Guildries, and Trades of the Borough of Montrose. It was unanimously agreed to, and he feared, from the present constitution of the Scotch burghs, self-elected as the principal persons in them were, this was the only unanimous petition which her Majesty was likely to receive from that quarter. The very mode of their constitution was fatal to public spirit. (Hear.) The petitioners did not pronounce upon the guilt or innocence of the Queen, but they looked with terror and dismay to the principle of the bill of pains and penalties now brought against her, which they considered subversive of public liberty. His own opinion was too well known to require repetition. He concurred entirely in the sentiments contained in the petition, and thought no man could uphold such a

system of *ex post facto* law, without endangering the constitution. He envied not the man who entertained the contrary opinion. The petitioners also prayed that, if the bill was sent from the Lords to that house, they should instantly reject it.

Mr. KEITH DOUGLAS said, in explanation, that the Hon. Gentleman must have entirely mistaken what he had said. He never complained of the proper expression of the public feelings, nor of the constitutional exercise of the liberty of the press—he merely said that he thought the press was now exercised in an undue manner, and for a purpose which seemed, as if, intended to intimidate Parliament and the Country from adopting any measure which partook of a particular character. To attempt such intimidation, pending the agitation of a great public question, was, he thought, highly unconstitutional. For his own part he thought it right, as a Member of Parliament, to say, that no undue influence should deter him from the strict and proper discharge of his public duty. (*Hear.*) With respect to the mode of presenting the addresses to which he alluded, he meant surely to say, that it was very unusual to assemble the people in such numbers to go up in bodies with addresses. The appearance of such crowds was certainly alarming.

Mr. HUSKISSON rose to give some explanation respecting that part of the Hon. Gent.'s speech in which he stated that the person who was lately the Editor of the *Courier* had received a present of the service of plate formerly in possession of the Princess of Wales. On this subject he rather imagined the Hon. Gent. made an allusion to what had fallen from him on a former occasion respecting crown plate. On that occasion he certainly said that the plate used by the Princess of Wales, being plate belonging to the crown, could not be alienated from it by the personal act of the King, without the approbation and signature of his Majesty's responsible advisers. The Honourable Gentleman seemed to assume that some of this plate had been given to the late Editor of the *Courier*, and he inferred that the act of giving it was highly irregular and improper. If the facts were, indeed, as the Hon. Gentleman seemed to think they were, on the authority of public rumour, then he (Mr. Huskisson) should be most ready to concur with him in saying that it was the most irregular and censurable proceeding which could possibly take place. (*Hear.*) But the rumour was utterly unfounded. (*Hear.*) He had inquired of his Right Hon. Friend if any appropriation had taken place of the plate used by the Princess of Wales at Kensington palace, since it had been deposited with the Lord Chamberlain; and the answer was just as he expected—that no appropriation whatever of that plate had since taken place. The fact was, as he had on the former occasion stated, that no plate

purchased for the use of the crown, or for that of any of the Members of the Royal Family, out of the Civil List money, can be given away by the crown as a present without a formal assignment, sanctioned by the proper responsible officers. No part whatever of the plate alluded to had been appropriated as the Hon. Member seemed disposed to think, and it was now, as he understood, in the Lord Chamberlain's custody, to be applied as usual wherever it might be wanted for the use of the Royal Family. If the Hon. Member asked whether the late Editor of the *Courier* had any plate presented to him which bore the decoration of the Royal Arms, he (Mr. Huskisson), not having the pleasure of any acquaintance with that Gentleman could not answer; all he could say was, that he might have such plate without its being drawn from the stores in the Lord Chamberlain's department, or from the crown-plate. The report of the transfer of the plate alluded to was certainly quite unfounded.

Mr. HUME said he was glad to hear the rumour contradicted, and that the plate used by the Princess of Wales still remained with the Lord Chamberlain; but was it ever out of his possession since the Princess had it?

Mr. HUSKISSON replied, certainly not. The petition was then brought up, and laid on the table.

AFFAIRS OF PORTUGAL.

Mr. HUME begged to put a question to the Noble Lord opposite, on the subject of the affairs of Portugal. Rumours were now prevalent out of doors that a large armament was about to be sent out from this country to Portugal, and that additional corps of yeomanry and militia were to be immediately provided to do the duty of the regular troops, who were to be called upon for foreign service. These steps were, it was said, to be taken in consequence of the recent political occurrences in Portugal, and the effect of the rumour was to be seen in the depression and fluctuation in the state of the funds. It was for the purpose of removing this alarm as much as possible that he now rose to ask the Noble Lord whether he had any official information from Portugal respecting the recent events to which he alluded? and whether there was any ground for the alarm which was felt in the money market?

Lord CASTLEREAGH thought it not quite regular, upon the prevalence of such rumours as those to which the Hon. Gent. alluded, to put formal questions to his Majesty's Ministers. To encourage such questions would, he rather thought, tend to perplex the business of the country, more than to assist its course. It was most unreasonable therefore to ask him to pronounce any opinion upon transactions respecting which he had hardly at present any information. He had as yet received no despatches containing

any accounts of the events alluded to by the Hon. Member, and he was consequently unable to give him the information he desired. He trusted that the Hon. Gent. would deem this a sufficient answer, in the absence of any official information upon the subject.

LORDS' JOURNALS.

Mr. BROGDEN brought up the Report of the Committee appointed to examine the Lords' Journals, respecting the state of the Bill of Pains and Penalties now in progress against the Queen. The report briefly stated the present situation of the bill in the House of Lords.

Lord CASTLEREAGH, in moving that this report be laid on the table, said, it would perhaps be deemed proper by the House to adjourn until Tuesday, the 17th of October next. His object was, that they should meet about the time when it was likely they would have a closer opportunity of ascertaining the state of the Bill elsewhere, and arranging that, if it should come down to them, they would devote their attention to it with the least possible delay, after ensuring, by a call of the House, a full attendance of Members. If they met on the 17th October, they could perhaps fix a day for meeting to enter upon business between the 5th and 10th of November. He named the latter time, so as to afford Members about three weeks between their next meeting and the actual commencement of other business, should they be called upon by any proceedings elsewhere to enter upon it.

Mr. HUME suggested whether it would not be the better plan to fix a later and a more certain day at once. They ought to estimate the same length of time for the Queen's defence that the prosecution occupied, which was three weeks. Why not name a day in November at once?

LORD CASTLEREAGH remarked that the arrangement which he suggested amounted in fact to the same thing. He merely wished the House to meet on the 17th of October, that they should keep the Bill in their view, not that under any circumstances they should discuss the matter on the 17th, but then merely fix a period for a call of the House.

Mr. HUME repeated that the more distant period would be the more advisable, because it would be more certain.

LORD CASTLEREAGH still thought a previous meeting advisable to fix the precise time of taking the discussion, which they could on the 17th better determine than now. This was a proceeding of too much delicacy to be left standing over; they ought, therefore, to watch its progress, and then determine, should it come before them, the earliest possible time when they could devote to it their consideration.

SIR GERARD NOEL could not think what the Noble Lord meant when he talked

of delicacy in this business. Surely he did not mean to say that his Majesty's ministers had treated the House delicately respecting it. On the contrary, they had treated the House just as a huntsman did a pack of hounds—they turned them out, and whipped them in, just as they wanted them. (A laugh.)

LORD FRANCIS OSBOENE begged some explanation from the Noble Lord opposite on the subject of the separation of the divorce part of the Bill, which had been alluded to by a Noble Earl (Liverpool) in the other House. It was intimated in the place to which he alluded that the divorce clause would be abandoned if any religious feeling pervaded the country upon that part of the Bill. He was anxious for some explanation of the intention of his Majesty's ministers upon that point. At present he was quite at a loss to understand the course they meant to pursue. He could perfectly understand the degradation of the Queen now, for acts done when she was Princess of Wales, so long as her case was within the sphere of the statute of Edward III.; but the moment she was taken out of the operation of that statute, her acts were no longer, strictly speaking, those of the Princess of Wales, for she became reduced to the level of an ordinary woman. How then could the acts of a person placed under such circumstances be said to affect her character as Queen? Suppose, for the sake of argument, that a Princess of Wales had been guilty of a thousand acts of levity, it did not therefore follow that she would not make a good Queen. How many Kings had there not been who departed from the line of conduct they pursued in the earlier period when they were Princes? Take, for instance, the example of Henry V., and of others whose names were to be found in history. In his opinion, if the Princess of Wales was once taken out of the statute of Edward, she became reduced to the station of an ordinary woman, and the acts then ascribed to her could not be said to degrade her as Queen. He thought it very important that the divorce point should be cleared up with as little delay as was possible. The hint respecting it which had been given struck at the root of the system of the established church. He thought it very desirable that some clearer explanation should be given upon this subject.

LORD CASTLEREAGH regretted his inability to enter into the legal construction of the statute of Edward with the Noble Lord, but he thought it obvious that the bill, as at present framed, had two purposes—the one affecting her Majesty's rights as Queen, and the other enacting a divorce. What he understood his Noble Friend (the Earl of Liverpool) to have stated elsewhere was this—that there was no intention whatever of acting in opposition to any religious feeling which might be excited; and that the part of the

Bill which went to the divorce need not be pressed, as the measure was disclaimed for the purpose of affording any personal remedy. Upon public and not personal grounds its necessity was to be considered. In the present stage of the proceedings elsewhere, it was obviously quite impossible for him to give the Noble Lord the explanation he required. There was no person competent indeed to give it, as the Bill was entirely open for consideration in the other House of Parliament.

LORD FRANCIS OSBORNE said, that he was then to understand the Bill now stood in the same shape as when it was first introduced.

LORD CASTLEREAGH replied in the affirmative, still repeating that, as it stood, delicacy forbade them from anticipating what change it might undergo in its progress elsewhere. He was merely anxious to explain what he understood had fallen from his Noble Friend elsewhere.

Mr. PETER MOORE wished to know whether any steps had been taken to give relief to Mr. Swann.

LORD CASTLEREAGH replied, that the matter to which the Hon. Member referred not being within the control of his department, it was out of his power to give any explanation upon the subject.

The report of the Committee appointed to search the Lords' Journals was then laid on the table; and the House adjourned, at half-past eight o'clock, until Tuesday, the 17th October next.

MINORITY

ON MR HOBHOUSE'S MOTION TO PROROGUE PARLIAMENT.

Bennet, H. G.	Osborne, Lord F.
Bernal, R.	Noel, Sir G.
Coke, T.	Palmer, C. F.
Creevey, T.	Whitbread, C. S.
Hughes, Col.	
Maherly, J. (sen.)	TELLERS.
Martin, J.	Hobhouse, J. C.
Moore, P.	Wilson, Sir R.

TRIAL OF HER MAJESTY,

CAROLINE AMELIA ELIZABETH,

QUEEN OF ENGLAND.

THE DEFENCE.

House of Lords,

TUESDAY, OCT. 3, 1820.

This day the House re-assembled, pursuant to adjournment. The Peers began to take their places soon after nine o'clock, and at about seven minutes before ten the Lord-Chancellor entered, and seated himself on the Woolsack.

Prayers were then read by the Bishop of Bristol, and the House called over. Apologies were made for the non-attendance of several Peers, in consequence of indisposition, and other causes. Among those absent were Lord Sheffield, the Bishop of Bangor, the Earl of Chichester, and the Duke of Newcastle. Lords Gambier, Harwood, and Hillsborough, did not answer, on the call.

SIGNOR MARIETTI'S LETTERS.

The EARL of LIVERPOOL, before their Lordships proceeded to the business of the day, wished to say a few words on a transaction which had been made the subject of conversation previously to the adjournment. He alluded to what had passed respecting a letter written by M. Marietti, of Milan, to his son in this country, with reference to the Alien Bill. In consequence of what was stated in that letter, he had felt it to be his duty to write to Colonel Browne for an explanation of his conduct. Having received his answer, he would, with their Lordships' permission, lay on the table the correspondence which had passed on the subject, and he was persuaded that the explanation would be found perfectly satisfactory.

No. 40.

The following is a Copy of the Correspondence:—

No. 1.

LETTER FROM MR. MARIETTI THE ELDER TO HIS SON IN LONDON.

Milan, Sept. 16.

DEAREST SON,—I have received and read your letter of the 3d instant. Relatively to the threats conveyed to me by Mr. Browne, I must repeat to you once more the same observations I then made—that it is expedient to cut short with the great (*tagliar corto col grande*.) They are always in the right. You have taken up the matter with much heat; in the main you are right, I feel that you are so; but you have carried it too far. It is true that Browne has expressly and repeatedly insisted with Mr. Albertoni that he should make known to you the dissatisfaction in that quarter towards you, and the danger of the Alien Bill which you were going to encounter. But, nevertheless, follow the judgment of your father, who knows by experience what is most expedient, and for the best, in similar cases. Abandon the object, and allow the controversy thus to terminate, since, by persons of mean condition or inferior rank, as you and I are, it is sufficiently well terminated by what has been already done. This instant a courier has arrived with letters of the 5th., and by the paragraph relative to Milan you may see how completely what Brown said here has been verified. You treated and spoke with the person alluded to, believing him quite a different character. I will speak with Peter at his return, as I

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have to-day spoken with Sperati; I know what ever happens, what you said is right, that you, Peter, and Sperati, are well known, for persons of sense and character, and very different from that good for nothing individual (*quel poco di buono*.) But the conclusion is, to keep every thing silent, and to prevent all publicity.

I salute you, your affectionate Father.

2.

LETTER FROM MR. MARIETTI THE ELDER, TO COL. BROWN.

Milan, Sept. 19th.

Most worthy Colonel,—I understood, with great concern, that your name has been compromised in a subject of conversation, which was supposed to have taken place between you and me relative to my son Joseph, at present in London. I think it therefore a duty to declare, as I now declare upon my honour, that no conversation ever passed between you and me, directly on this subject. If the expressions contained in a letter written by me to my son are somewhat strong, that must be ascribed to the affection which a lively interest in him created, and a conformity to the advice I have always given him—advice tending to manifest the necessity of adhering to the system adopted by me, never to mix in affairs foreign to one's own business. It grieves me exceedingly, that an interpretation has been given to my letter opposite to my intentions—an interpretation which supplies materials to discussions irrelevant and ill founded. My displeasure in this case increases at seeing that a similar interpretation has caused doubts regarding the good faith of an individual whose distinguished and honourable character is known to me by long experience.

I consider you, moreover, incapable of making use of the threats which are attributed to you, as the British government is of executing them. In taking this mode of stating to you the sentiments with which I am animated in the present emergency, I experience the sweet satisfaction of fulfilling a duty which is incumbent upon me, and I take the opportunity of assuring you of my perfect esteem.

No. 3.

LETTER FROM MR. ALBERTONIO TO COLONEL BROWN.

Milan, Sept. 19

M. COLONEL,—It is with regret proportioned to the respect which I bear you that I learn that the sense of a letter written by M. Marietti to his son, has been so ill understood as to have imputed to you the communication of an intention on the part of the British Government to watch over the latter, and to send him out of England on account of his relations with Sacchini, a witness in the case of the Queen. I remember that you

said to me, one morning that I was present with you on business, that you had received a letter from England, stating the interference of Joseph Marietti in this affair, and that you could not but regard such conduct as a little unwise, and foreign to his occupation in London. I cannot at the same time forget that I regarded this communication as a simple opinion emanating from yourself, and very far from the expression of authority or of menace. As regards what is said on the Alien Bill, of the provisions of which I am ignorant, it is a duty I owe to your character, always frank and loyal in all respects, to say that you never gave me the least reason to fear for the personal security or the protection of the said Joseph Marietti.

I can add that I thought it my duty to beg M. Marietti the father, to write to his son to advise him not to mix in an affair so foreign to his occupations, but to restrict himself to the wise and moderate conduct which has always distinguished him; and if in writing to him his father has made use of strong expressions, they ought in no wise to be ascribed to you, Colonel Brown, but solely to the confidence and paternal affection which dictated them.

No. 4.

LETTER FROM MR. MARIETTI THE ELDER TO HIS SON IN LONDON, (NOT READ BY LORD LIVERPOOL IN PARLIAMENT.)

Milan, Sept. 20.

Dearest Son,—I am ever the more confirmed in my maxim that it is right to have as little as possible to do with the great. I must say that the Government in question has too strictly interpreted the letter I wrote you, and which has presented to the minister of police other motives than those which really originated it, since it is right to tell you that the English Government has written an angry letter to Colonel Brown. He (Colonel Brown), feeling himself much disquieted on this account, made such an application to Sig. D. Cicci, and to Sig. Albertoni, that the former begged me to convey to the said Colonel Brown a letter of mine, which in a certain way (*in certe qual modo*), might justify him with his Government from the too rigorous interpretation given to my former letter. And after having written and re-written, through the medium of the said Signor Cicci, draughts of such a letter to be shown, the copy which I enclose to your address was fixed upon. You will likewise find the copy of a letter which the said Col. Brown desired from the said Signor Albertonio, who gave me the account contained in the letters formerly addressed to you. To the honour of truth I have regarded what Col. Brown said through the medium of Signor Albertonio, as an act of friendship, to prevent him from being brought into any danger. Nor could I ever have imagined that such a thing could have been

of as much importance as it has proved.— However that be, to facilitate the allaying of such a controversy, and to preserve amity with all, I have thought proper to second it, as you will perceive by the copy. They wished me to declare that my first letter was the result of my own simple suspicion, and had no ground to rest upon; but this I would not allow, because the having named Col. Brown in the way I did would have been charged on me as a calumnious imputation; and therefore you will see in my letter sent yesterday to him, (Col. Brown) that I mention my not having direct conversation with him, and derive my information from what he caused to be said to me by Signor Albertonio. Regulate yourself therefore in every thing with the greatest prudence, in order not to incur other annoyances and other dissatisfactions, which can only produce evil to you.

Your affectionate father.

His Lordship having laid the letters on the table, said he had not the slightest objection to their being printed, if such should be the pleasure of the House. If any further doubt should be entertained on this subject by any of their Lordships, it would still be open to inquiry. It was Colonel Browne's wish that it should be probed to the bottom, and he was therefore most desirous that the fullest explanation should be given.

LORD BOLLAND thought it necessary to observe, that though it should be perfectly true that the Alien Bill had never been mentioned by name to M. Marietti, that fact would be no answer to the general objections which existed to the Alien Bill on account of its nature, and of the effect it might have on this inquiry. On the contrary, what had passed served to confirm the apprehensions entertained of its effect, for the correspondence showed that that Bill was looked to with alarm. He must also declare that the statement which the Noble Earl had made was not convincing to his mind; nor could any expert statement be convincing to their Lordships. Of Colonel Browne he knew nothing; but the Noble Lord had concluded with expressing his willingness to afford further explanations from that gentleman, if any doubt should remain. For his own part he must say, that in his mind no satisfactory explanation could be given without a full investigation of all that had passed by the examination of the parties. Laying the papers on the table was not sufficient for this purpose. The Alien Act, it was said, had not been mentioned; but their Lordships must be aware that it was very possible to convey to men's minds the apprehension of the penalty of that act without naming it, and it could not escape their observation that it was admitted there had been a conversation between a clerk and Co-

lonel Browne relative to M. Marietti. If, therefore, it was wished, that the suspicion should be effectually done away, there must be a farther investigation. He would, therefore, reserve to himself the right of again calling their Lordship's attention to this subject when the printed papers should be on the table.

The EARL of LAUDERDALE suggested, that, before any further proceeding could with propriety take place, it would be necessary to get the letter which M. Marietti had written to his son. That letter, he supposed, could be easily obtained; and it appeared to him indispensable, if a foundation was to be laid for future investigation. The first step, he thought, would be but justice to Colonel Browne, as well as to the parties in the present case. If, therefore, any inquiry was intended to be instituted, he hoped means would be taken to obtain that letter.

The papers were ordered to be printed.

EXPENSES OF THE PROCEEDINGS.

The EARL of DARNLEY rose to move that an account of the money expended in the proceedings against her Majesty be laid before the House. He had before urged the propriety of their Lordships calling for a statement of the expense incurred by these unnecessary and disgraceful proceedings. He had a right to expect that account would be produced without delay, and certainly it was proper their Lordships should be made acquainted with the extent of the sums already expended. Whatever the amount might be, he considered it as money misapplied, as much worse than thrown away. An account of the expenditure had been ordered by the House of Commons; and there could, therefore, be no pretext for refusing it to their Lordships. The Noble Lord concluded by moving that an account of the money expended on the proceedings against the Queen be laid before the House.

The EARL of LIVERPOOL could have no objection whatever in point of principle to the production of the account which the Noble Lord had moved for, if the House should now think fit to call for it. He must, however, say, that when he formerly opposed it, his objection did not apply to the production of the account, but to the time of producing it. He thought that the termination of the whole proceedings was the proper time for laying before the House an account of the expenses. This was his opinion; but, having stated it, he had only to repeat, that if the general wish of the House appeared to be in favour of the motion, he should not oppose it.

The MARQUIS of LANSDOWN thought that the objection of the Noble Earl would be somewhat more reasonable if he had op-

posed the granting of an account of the expenses on the other side; but that account having been granted, he did not see any ground for refusing the present demand.—

What objection could apply to the stating the expenses for the one side which did not equally apply with regard to the other? He admitted, however, that the close of the proceedings was the proper time.

The EARL of DARNLEY contended in what had been stated by his Noble Friend, but did not press his motion.

HER MAJESTY'S DEFENCE.

Counsel were then ordered to be called to, and the Barristers and Solicitors on each side entered and advanced to the bar.

Mr. BROUGHAM began to address their Lordships in a very low tone of voice: it was with difficulty he could at first be heard: he said, the time had now arrived when it became his duty to address himself to their Lordships in defence of his illustrious client. But when the moment which he had so anxiously desired had at length come, he felt the greatest alarm. It was not, however, the august presence of that Assembly, which oppressed him, for he had often experienced its indulgence; neither was it the novelty of the proceedings that embarrassed him, for to novelty the mind gradually gets accustomed, and becomes at last reconciled to the most extraordinary deviations; nor was it even the great importance and magnitude of the cause he had to defend which perplexed him, for he was borne up in his task with that conviction of its justice, and of the innocence of his illustrious client, which he shared in common with all mankind. But it was even that very conviction which alarmed him—it was the feeling that operated so zealously and so rightly which now dismayed him, & made him appear before their Lordships impressed with the fear that injustice might be done to the case by his unworthy mode of handling it. While, however, other Counsel have trembled for fear of guilt in a client, or have been chilled by indifference, or have had to dread the weight of public opinion against them, he had none of these disadvantages to apprehend. Public opinion had already decided on the case, and he had nothing to fear but the consequences of perjury. The apprehension which oppressed him was, that his feeble exertions might have the effect of casting, for the first time, this great cause into doubt, and turning against him the reproaches of those millions of his countrymen now jealously watching the result of these proceedings, and who might, perhaps, impute it to him if their Lordships should reverse that judgement which they had already pronounced upon the charges in the present state of the important case. In this situation, with all the time which their Lordships had afforded him for reflection, it was difficult for

him to compose his mind to the proper discharge of his professional duty; for he was still weighed down with the sense of the heavy responsibility of the task he had undertaken. He must also observe, that it was no light addition to the anxiety of this feeling to foresee that, before these proceedings closed, it might be his unexampled lot to act in a way which might appear inconsistent with the duty of a good subject—to state what might make some call in question his loyalty, though that was not what he anticipated from their Lordships. He would not remind their Lordships that his illustrious client, then Caroline of Brunswick, arrived in this country in the year 1795; she was the niece of the Sovereign, and the intended Consort of the Heir-Apparent, and was herself not far removed from the Succession to the Crown. But he now went back to that period solely for the purpose of passing over all that had elapsed from her arrival until her departure in 1814; and he rejoiced that the most faithful discharge of his duty permitted him to take this course. But he could not do this without pausing for a moment to repudiate himself against an imputation to which he might not unnaturally be exposed in consequence of the course which he pursued, and to assure their Lordships that the cause of the Queen, as it appeared in evidence, did not require recrimination at present. The evidence against her Majesty, he felt, did not now call upon him to utter one whisper against the conduct of her Illustrious Consort, and he solemnly assured their Lordships that but for that conviction, his lips would not at that time be closed. In this discretionary exercise of his duty, in postponing the case which he possessed, their Lordships must know that he was waiving a right which belonged to him, and abstaining from the use of materials which were unquestionably his own. If, however, he should hereafter think it advisable to exercise this right—if he should think it necessary to avail himself of means which he at present declined using—let it not be vainly supposed that he, or even the youngest member in the profession, would hesitate to resort to such a course, and fearlessly perform his duty. He had before stated to their Lordships—but surely of that it was scarcely necessary to remind them—that an advocate, in the discharge of his duty, knows but one person in all the world, and that person is his client. To save that client by all means and expedients, and at all hazards and costs to other persons, and, among them, to himself, is his first and only duty; and in performing this duty he must not regard the alarm, the torments, the destruction, which he may bring upon others. Separating the duty of a patriot from that of an advocate, he must go on reckless of consequences, though it should be his unhappy fate to involve his country in confusion. He

felt, however, that, were he now to enter on the branch of his case to which he alluded, he should seem to quit the higher ground of innocence on which he was proud to stand. He would seem to seek to justify, not to resist the charges, and plead not guilty—to acknowledge and extenuate offences, levities, and indiscretions, the very least of which he came there to deny. For it was foul and false to say as some of those who, under pretence of their duty to God, forgot their duty to their fellow creatures, had dared to say, and they knew it to be false and foul when they asserted it—that any improprieties were admitted to have been proved against the Queen. He denied that any infractions were admitted. He contended not only that the evidence did not prove them, but that it disproved them. One admission he did make; and let the Learned Counsel who supported the bill take it, and make the most they could of it, for it was the only admission that would be made to them. He granted that her Majesty had left this country for Italy; he granted that while abroad she had moved in society chiefly foreign, inferior probably to that which, under happier circumstances, she had known—and very different, certainly, from that which she had previously enjoyed in this country. He admitted, that when the Queen was here, and happy, not, indeed, in the protection of her own family, but in the friendship of their lordships and their families, that she moved in more choice and dignified society than any in which she has since had the good fortune to be placed. The charge against her was—that she went to Italy, and that, instead of associating with the peers and peeresses of England, she took to her society only foreigners. He fully admitted that her Majesty had been under the necessity of associating with Italian nobility, and sometimes with the commonalty of that country. But who are they that bring this charge? Others might blame her Majesty for going abroad—others might say that she had experienced the consequences of leaving this country and associating with foreigners; but it was not for their Lordships to make this charge. They were the very last persons who should bring this at the Queen; for they who now presumed to sit as her judges were the very witnesses she must call to acquit her of this charge. They were, in fact, not only the witnesses to acquit but had been the cause of this single admitted fact. While her Majesty resided in this country she courteously threw open her doors to the Peers of England and their families. She graciously condescended to court their society, and, as long as it suited certain purposes which were not her's—as long as it served interests in which she had no concern—as long as she could be made subservient to the ambitious views of others, she did not court in vain. But when a change took place—

when those interests were to be retained which she had been made the instrument of grasping—when that lust of power and place to which she was doomed to fall a victim had been satisfied—then in vain did she open her doors to their Lordships and their families; then it was that those whom she had hitherto condescended to court—and it was no humiliation to court the first society in the world—abandoned her. Her Majesty was then reduced to the alternative of begging society in the country as a favour, or of leaving it. She could not, by humbling herself, have obtained the society of British Peeresses, and must have sought that of other classes, or gone abroad. Such, then, being the circumstances, it was not in the presence of their Lordships that he expected to hear the Queen reproached for going abroad. It was not here that he had thought any one would have dared to lift up his voice, and make it a topic of censure that the Princess of Wales had associated with foreigners—with some whom, perhaps, she might say she would not, and ought not have chosen under other and happier circumstances. Up to this period her Majesty had still one pleasure left. She enjoyed, not indeed the society, but the affection and grateful respect of her beloved daughter. An event, of all things most grateful to a mother's feelings, soon after took place—the marriage of her beloved daughter. Of this event her Majesty had no announcement. Though all England was looking towards the approaching event with the deep interest it was so well calculated to excite—though all Europe was looking at it with the liveliest feelings, and with all the knowledge of the interesting event which was about to take place—still there was one person, and one only, left in ignorance of the whole proceeding, and that solitary individual was the mother of the bride. All that she had done up to that time to deserve this treatment was, that she had been charged, and afterwards acquitted, of an alleged crime, and her perjured persecutors rendered infamous; and this treatment she received from his Majesty's servants, some of whom had risen in power by having made her a tool to promote their own interests. The Queen heard of the event of the approaching marriage of her only child, accidentally; she heard it from a courier, who was going from this country charged with a notification of it to his Holiness, the Pope—that ancient, intimate, and much valued ally of the Protestant Crown of England. The marriage of her daughter took place; it excited the sensations which it was so well calculated to produce, as the promised source of so much happiness to the Royal Family and the nation. The whole of that period passed without the slightest communication being made to the Queen. The period of the Princess Charlotte's *accouchement* arrived; her mother was then fearful of opening a

communication upon the subject, knowing the agitation it might create in the mind of her beloved daughter. She knew at such a moment the perilous results that might follow to the beloved object of her maternal solicitude, were she at that period to create any agitation in her mind upon a topic, which might expose her to a quarrel with power and authority on the one hand, or combat her peace and affection on the other. An event followed which destroyed for ever the hopes of the country—an event which filled all England with grief and sorrow, and with a mourning in which all their foreign neighbours unaffectedly sympathized. With a due regard for the sympathy of foreign powers, the sad tidings were rapidly conveyed to each of the allies of Great Britain, to every power and state connected with her, and to some that were not. But to the Queen, again, no communication was made. She who, of all the world, had the deepest interest in the event—she whose feelings must necessarily be, of all mankind, the most overwhelmed and stunned by the awful communication, in any manner in which it could be made—was left to be so stunned and overwhelmed by hearing by accident of the death of her daughter, as she had by accident heard before of her marriage. If she had not heard the dreadful news by accident, she would ere long have felt its occurrence; for the death of the deceased daughter was soon conveyed to the agonized mother by the issuing of the Milan commission, and the commencement of that process against her honour, station, and character. How wretched was the lot of this lady, as displayed in all the events of her chequered life! It was always her sad fate to lose her best stay, her strongest and surest protector, when danger threatened her; and, by a coincidence most miraculous in her eventful history, not one of her intrepid defenders was ever withdrawn from her, without that loss being the immediate signal for the renewal of momentous attacks upon her honour and her life. Mr. Pitt, who had been her constant friend and protector, died in 1806. A few weeks after that event took place the first attack was levelled at her. Mr. Pitt left her as a legacy to Mr. Perceval, who became her best, her most undaunted and firmest protector. But no sooner had the hand of an assassin laid prostrate that Minister, than her Royal Highness felt the force of the blow by the commencement of a renewed attack, though she had but just been borne through the last by Mr. Perceval's skilful and powerful defence of her character. Mr. Whitbread then undertook her protection, but soon that melancholy catastrophe happened which all good men of every political party in the state, he believed, sincerely and universally lamented: then came with Mr. Whitbread's dreadful loss the murmuring of that storm which was so soon to burst with

all its tempestuous fury upon her hapless and devoted head. Her daughter still loved, and was her friend; her enemies were afraid to strike, for they, in the wisdom of the world, worshipped the rising sun. But when she lost that amiable and beloved daughter, she had no protector: her enemies had nothing to dread; innocent or guilty, there was no hope, and she yielded to the entreaty of those who advised her residence out of this country. Who, indeed, could love persecution so steadfastly, as to stay and brave its renewal and continuance, and harass the feelings of the only one she loved dearly, by combating such repeated attacks, which were still reiterated after the record of the fullest acquittal? It was, however, reserved for the Milan Commission to concentrate and condense all the threatening clouds which were prepared to burst upon her ill-fated head; and, as if it were utterly impossible that the Queen could lose a single protector without the loss being instantaneously followed by the commencement of some important step against her, the same day which saw the remains of her venerable Sovereign entombed—of that beloved Sovereign who was from the outset her constant father and friend—that same sun which shone upon the Monarch's tomb ushered into the palace of his illustrious son and successor one of the perjured witnesses who was brought over to depose against her Majesty's life. Why did he mention these melancholy facts to their Lordships? Was it to illustrate the trite remark of the miserable subserviency of trading politicians? Was it to show that Spite was the twin-brother of Ingratitude, and that no favour could bind those whose nature was peevish and bad?—Favours conferred, only made base passions more malignant against a benefactor? No; to dwell upon so trite a remark would indeed be futile and unnecessary in the presence of their Lordships. But he said it to impress upon their Lordships a deep sense of his own unworthiness to perform this duty to the Queen, an unfeigned consciousness of his inability to follow such powerful men as he had named in the defence of this illustrious individual, and to assure their Lordships how deeply sensible he was of his want of power to make for his illustrious client that conclusive and irresistible defence on this occasion, which, were they alive and filling their wonted duty, they would not fail to do, to the utter discomfiture of her Majesty's enemies. Before he proceeded further in the results to which he was prepared to contend, the details of the evidence in this case must lead, he must beg leave to call their Lordships' attention to what that evidence did not do. He meant to point out the parts of his Learned Friend the Attorney-General's opening statement, which, instead of receiving support from the evidence, were either not touched upon by it at all, or actually ne-

gated out of the mouths of his own witnesses. His Learned Friend should speak in his own words his statement of the plan and construction of his own case. It was most material also for them to bear in mind, that his Learned Friend was in his statement directed by the instructions which were put into his hands, for his speech ought, of course to be considered as the mere transcript of his instructions, the mere outline of the documents submitted to him—documents prepared too in a way which nobody need be at any loss to guess. His Learned Friend, nearly in his commencement, used these words—"I will most conscientiously take care to state nothing which in my conscience I do not think—I do not believe—I shall be able to substantiate by proof." He need not have so strongly appealed to his conscience, for he (Mr. Brougham) fully believed him when he said he spoke from his instructions; he readily believed that he spoke from his brief, and said nothing else but what he found in his brief. He believed that, at the time his Learned Friend made his opening statement; he equally believed it now, when he had failed substantiating that statement by proof. He knew full well that there was no other way for that statement to have got into his Learned Friend's brief but out of the mouths of the witnesses, who at first had not hesitated to garnish their stories, though they were not afterwards found hardy enough to adhere to their falsehoods when brought to their Lordships' bar. When they came to the point, they were scared from their first statements. He would read a few samples of the difference of the Attorney-General's statement and his subsequent evidence, for the purpose of showing the value at which their Lordships ought to estimate that evidence. In the first, his Learned Friend had pledged himself that the evidence of her Majesty's alleged impropriety of conduct would be brought down almost to the present time; but subsequently he did not attempt so to bring it down during any part of the last three years, that is to say, during a space of time exactly equal to the other space over which his evidence actually adduced, extended. Here he begged leave to revert to the following passages of the Attorney-General's opening statement, which he took from the short hand-writer's notes:—"On the arrival of her Majesty's suit at Naples, it was so arranged that her Majesty's sleeping-room was at an opposite side of the house to that of her menial domestics, among whom was her courier. On the first night of her Majesty's arrival at Naples (the 8th Nov.), to which he had called their Lordships' attention, this arrangement was continued. Bergami slept in that part of the house which had been prepared for the domestics, and young Austin slept in her Majesty's apartment. But on the following morning, November the 9th, the servants of the establishment learned with

some surprise, because no reason appeared to them for the change, that Bergami was no longer to sleep in that part of the house where he had slept the night preceding; but that it was her Majesty's pleasure that he should sleep in a room from which there was a free communication with that of her Majesty, by means of a corridor or passage." "Upon the evening of the 9th of November her Majesty went to the Opera at Naples, but it was observed that she returned home at a very early hour. The person who waited upon her, on her return, was the maid-servant whose duty it was particularly to attend to her bed room." "The female servant retired; but not without those suspicions which the circumstances he had mentioned were calculated to excite in the mind of any individual. She knew, at the time, that Bergami was in his bedroom, for this was the first sight of his having taken advantage of the arrangement which had been previously made. It was quite new, on the part of the Princess, to dismiss her attendants so abruptly; and when her conduct and demeanour were considered, suspicions arose which it was impossible to exclude. But if suspicions were excited then, how were they confirmed on the following morning? If I prove (said the Attorney-General), by evidence at your Lordships' bar what I am now going to state, I submit that there will then be before your Lordships, evidence on which no jury would hesitate to decide that adultery had that night been committed between this exalted person and her menial servant; for, upon the following morning, on observing the state of her room, it was evident that her Majesty had not slept in her own bed that night. Her bed remained in the same state as on the preceding evening, while the bed of the other person had, to those who saw it, clear and decisive marks of two persons having slept in it." Their Lordships would perceive, that every one of these assertions in his Learned Friend's speech rose one above the other, in successive height, according to their relative importance, and that even the lowest of them it was of essential importance to sustain by evidence for his case. But every one of them he had not only failed to prove, as he promised to prove, by evidence, but he actually negatived some of the most material of them by the witness whom he produced at the bar evidently for the purpose of substantiating them. When the witness De Mont was at the bar, he repeatedly asked her respecting these parts of his statement; but she who was destined to tell of them all, denied any knowledge of where the Queen went on the particular night alluded to. She denied that she knew where the Queen went on the particular night alluded to. She denied that she knew where the Queen went after she left her bedroom. When asked whether the Queen on that particular morning rose at her usual hour, her answer, so far

from confirming the opening statement, was affirmative of her Majesty having got up at her usual hour. Nor did she know of any body having called to pay visits in the course of that morning, though pointedly asked, for the purpose of speaking to all the facts so forcibly urged in the Attorney-General's statement. In the next place, when either the Attorney-General, or his colleague, the Solicitor-General spoke of the passing occurrences in Italy, they evidently spoke from their instructions, and not from any personal knowledge of their own upon the manners of the country, for symptoms of ever having been in Italy they showed none. They had clearly never been there, or else they could not have spoken of the manners of Italy as they had done. For instance, see what they said about the masquerade and the Casino, which was the sort of society from which Colonel Browne was lately ejected: "Who ever," said the Solicitor-General, "was seen for any proper purpose going to a masquerade in this sort of disguise?" What a pity that her Majesty did not, to suit the view of his Learned Friends, go to the masquerade in a state coach, with coachmen in splendid liveries, with lacqueys bedizened out from head to foot, with all the pomp and show of state ceremony. What a pity she did not, on such an occasion, adopt this suitable and becoming state paraphernalia, instead of quitting her house in a private coach, instead of going out through a back door. Why had she not the eyes of the world upon her when she went forth, instead of quietly passing without pomp or show? It was a wonder that his Learned Friend did not go on, and say, "Why did she go in a domino and disguised cap to a masquerade? who ever before heard of this disguise on such an occasion?" How little did his Learned Friends know, when they talked in this manner, of the royal recreations of Murat's court! He would refer to another part of his Learned Friend's speech, where he said that "During her Majesty's residence at Naples another circumstance took place to which it was his duty to call their Lordship's attention. A masquerade was held at a theatre called, he believed, the Theatre of St. Charles. To this entertainment her Majesty chose to go in a very extraordinary manner, accompanied, not by Lady Charlotte Lindsay or Lady Elizabeth Forbes, or even by any of the gentlemen of her suite, but by the courier Bergami and a femme de chambre of the name of De Mont. The dresses chosen by her Majesty for herself and her companions to appear in on this occasion were, as he was instructed, of a description so indecent as to attract the attention of the whole company, and to call forth marks of general disapprobation. Indeed, so strong was the disapprobation, that her Majesty, finding she was recognized, was under the necessity of withdrawing with her companions from the entertainment, and re-

turning home." Now, what did Madame De Mont say, when called upon to describe this? "most indecent and disgusting dress" of her Majesty? Why, all that the perseverance and ingenuity of his Learned Friend could extract from the witness (no very unwilling one) was, that the Princess, on that occasion, wore what she, De Mont, called "ugly masks;" for, strange as it might appear to his Learned Friends, she went to the masquerade in a mask! Indeed, if she had not gone so, she would have had no business there. He should, he feared, greatly fatigue their Lordships were he to go over the whole of the numerous parts of his Learned Friend, the Attorney-General's speech which were left utterly unproved by the evidence. They would recollect that the Attorney-General stated he had evidence to prove that the Queen and Bergami were for a considerable time locked up together in a room in Messina in the night, and that the sound of kisses was heard from within: it now turned out, that only voices were heard, and of whom the witness could not say! It was also stated, that on the 12th. of April—(for their Lordships would observe his Learned Friend never forgot dates—his particularity was in this respect remarkable;) on the 12th. of April, at Sadouane, he had stated that the access to the Princess's room was through Bergami's, in which no bed was. But passing over this and a number of ineffectual attempts to obtain answers from De Mont, in conformity with the statement, he would recal their Lordships' attention to the statement of the allegations which it was intended through Majochi to substantiate. His Learned Friend had said "that the Princess remained in Bergami's bedroom a considerable time, while he was sleeping there, and the witness then distinctly heard the sound of kissing." Now what did Majochi himself say in this part of his testimony? He distinctly said "that she remained the first time about ten minutes, and at another time fifteen minutes," and he only heard "whispering." Then, again, in Sacchi's evidence, who was the courier that brought the answer back to Milan, which he was to deliver to Bergami, by Bergami's own order, at whatever hour of the night he returned,—his Learned Friend stated, that the courier, (which courier was Sacchi,) on repairing to Bergami's bedroom, did not find him there, but soon after, observed him coming from the direction of the Princess's room; and that Bergami then told him the cause of his being out of bed then was, having heard his child cry, and that he had gone to see what was the matter. But when Sacchi was brought to give his evidence, not a word of this came out in answer to the repeated questions put to him to elicit such a corroboration of the statement. Then came next in order the disgraceful scene which was represented to have occurred at the Barona; so disgraceful, that

his Learned Friend declared it made the place in which it was transacted deserve rather the name of a brothel than of a palace. His Learned Friend asserted, when he gave it this designation, that he was prepared with the most entire and satisfactory proof to show, that so disgusting was the scene, the servants became shocked by what they were obliged to witness. Her Majesty, according to the Attorney-General, had become at this time deserted by all the English persons in her suite. These were the words of his Learned Friend:—"It was certainly very singular, that on leaving Naples her Majesty was abandoned by the greater part of her English suite. Mr. St. Leger it was true, had quitted her before; he left her at Brunswick, and he therefore admitted that no inference could be drawn from his case. But, on her Majesty's departure from Naples, Lady Charlotte Lindsay and Lady Eliz. Forbes, were left behind. No, he begged pardon, Lady C. Lindsay did not leave the Queen until they were at Leghorn, in March, 1815. At Naples, however, Lady E. Forbes, Sir W. Gell, the Hon. Mr. Craven, and Capt. Este, certainly did separate from her. Thus of the seven persons who composed her Majesty's suite when she left this country, no less than four left her in Naples." But his Learned Friend forgot that, of these persons whom he so hastily dismissed from her Majesty's service at Naples, she was afterwards joined by Lady Charlotte Lindsay. How did it happen, he would ask, if the Princess's servants had become so shocked at the occurrences at the Barona, that they never communicated their astonishment to the servants of Lady Charlotte Lindsay, with whom they were in hourly communication? Was it likely that such feeling, if it pervaded the servants, would be kept as a grave-like secret from first to last, by those who were the depositories of it? But, after Lady Charlotte Lindsay joined the Princess, Lord and Lady Glenbervie came, Lady Charlotte Campbell came, and others, equally honourable, and equally virtuous: and yet, notwithstanding the servants were, as it were, astounded by the practices then occurring at the Barona, there was not one whisper to the servants of the English pages of rank, who rejoined her Royal Highness as part of her suite. These joined her Royal Highness after the scenes at the Barona; some met the Princess at Naples, some joined at Rome, others at Leghorn. Aye, at even much later periods her Majesty was attended by illustrious company. The Queen's company, in fact, became rather improved, than neglected, at the time alluded to. She was constantly received, and with suitable respect, after her return from the long voyage. She was courteously received by the legitimate Sovereign of Baden, and the still more legitimate Bourbon of Palermo. She was cour-

teously treated by the legitimate Stuardi of Sardinia, whose legitimacy stands contradistinguished from the illegitimacy of the family, whose possession of the throne of these realms stands upon the basis of public liberty and public rights. She was received even by a Prince who ranks higher in point of legitimacy—the Bey of Tunis (a laugh). She was also received with the same respect by the representative of the King at Constantinople. In fact, in all those countries she met with that reception which was due to her rank and consideration. He trusted their Lordships would suffer him now to dwell more minutely upon the statement of the case as opened by the Attorney-General, and the case as proved by his Learned Friend. The case, as opened, it was of no little importance to dwell upon. Was it not marvellous to have such a case, and to be capable of adducing in support of it such witnesses? Was it not, in the next place, more marvellous to find that such a case was left so miserably short, as it must be admitted this case was left, in comparison between the evidence and the opening statement? In the ordinary cases of criminal conversation, the two very witnesses, who, of all others were deemed of the utmost importance were the female's woman in attendance, and the male's body-servant or serving-man. These were the servants who must know the fact, if the criminal conversation took place. They had these witnesses here; they therefore had their case under the most favourable auspices—they had the man's valet and the woman's maid. These, in an ordinary case, would be deemed conclusive witnesses. The man's servant was rarely to be had for the prosecution, from the nature and manner of the action; but if counsel could get the female servant, they generally deemed their case proved. They had also, if their case were true, the very extraordinary, unaccountable, and unprecedented advantage of having parties to proceed against for the fact, who, from beginning to end, concealed no part of their conduct under the slightest or even the most flimsy disguise. Throughout the whole of the proceedings these parties, knowing they were watched, discarded all schemes of secrecy—showed an utter carelessness of the persons who were watching them—threw off all ordinary trammels—banished—banished from their practice every suggestion of decorum and prudence—and, in fact, gave themselves up to the gratification and indulgence of their passion, with that warmth which is only found in the hey-day of young blood, and with that utter indifference to reserve which marks the conduct of those who are joined together in those bonds which make the indulgence of their passion rather a virtue than a crime.—There was no caution or circumspection here. If they believed any one part of the evidence

replied; upon by his Learned Friend the Solicitor-General, there was not only no caution used by the parties to prevent discovery, but every thing which the most malignant accuser could require to fortify his case was left open by the parties who were to suffer by the proof. He entreated their Lordships to observe how every part of the case was left open to this remark; and, after having entreated them to bear it in mind, and apply it hereafter when they came to consider the evidence, he should simply observe, that just in proportion as the conduct became criminal and of the most unquestionably atrocious nature and character, exactly in the same proportion would be the parties be found to have taken especial care that during their commission of the act they had present, and seeing it, good witnesses to detect and expose them for their conduct. Thus it would be seen that they were sitting together in familiar proximity. The act is also seen with the addition of the Lady's arm round the neck, or behind the back of her paramour. When it is necessary to trace their conduct a step higher in the scale of criminality, and to exhibit the parties in such an attitude as to leave no room for explanation or equivocation, the act is done, not in a corner, apart from any scrutinizing eye, but in a villa filled by servants, and where hundreds of workmen are at the very time employed; and all this too is done, all this saluting is performed in open day, and exposed to the general gaze. Especial pains are taken that the slander shall not be secret, but on the contrary, that it shall be liable to the most widely diffused publicity. It would not do that Bergami, upon his departure on a journey from the Queen, while in Sicily, should salute her Majesty before the servant entered the room. No; the exhibition of that act was reserved for the presence of a servant to tell it. The same was the case in the story about Terracina. All the parties were on deck; they should not take the salute in their own cabin: it must be delayed until Majochi enters to witness it. Even the act of sitting on Bergami's knee upon the deck is adjusted in the presence of the crew and passengers. Care is taken that it shall be directly seen by at least eleven persons. The frequent and free saluting on the deck, which, when committed in a particular manner, must leave little doubt of the subsisting intercourse between the parties—even that must be done, not at night, nor in the dark and privacy of the cabin, but before every body, and in open day. But the case which their Lordships were called upon to believe was not left there, for the parties were represented as having taken the indispensable precaution of granting even the last favours within the hearing of witnesses. They were described as habitually sleeping together in all their journeys by land and sea. She could not even retire to change

her dress but Bergami must attend in the dressing-room—first, of course, the parties taking care to have a witness present to speak to the fact. He could not dwell with calmness upon the representation of these disgusting scenes, with the peculiar features of enormity which were attached to them, without repeating, that exactly in proportion as they partook of the most aggravated character, and denoted an utter contamination of the mind, precisely in that extent were increased pains taken that they should not be done in a corner. No hidden places or recesses were selected or chosen by the parties for the free and safe indulgence of their passion from the prying eyes of those about them. They sought no secluded chamber in those places of abomination so well known upon the Continent, and which are degraded under the dignified name of palaces. The parties took no opportunity of seeking those hidden haunts of lust which might have been so hastily found. They sought no island among those which were the seat of such scenes in the times of antiquity, when society was less scrupulous of the conduct of its members than now. They sought no haunts among the Capree of old, to revive in them those lascivious acts of which they were the ancient scene. They acted, on the contrary, before witnesses—they conducted themselves in open day-light, in the face of couriers, servants, and passengers. Was such folly ever known before in the history of human acts? Was ever folly so extravagant disclosed in the most unthinking acts of that youthful period when the blood boils in the veins? Was ever, even then, in that proverbial period of thoughtless levity, a being so recklessly insane as to have acted in this manner? There never was, he believed, such an instance in the history of human passions. The conduct of the parties did not stop here; for, lest the witnesses who saw the acts might not easily be forthcoming for the enemies of the accused, they were every one of them discarded by the person who was to be the victim of their testimony. They were successively dismissed either for cause or without it—indeed, he might say, most of them without it, for the cause stated was of the flimsiest kind. This dismissal was followed by a positive refusal to take them back, when every human inducement would have prompted the Queen to have permitted their return, if she had any reason to dread their resentment. Each of the witnesses who had to perform a part in the Italian drama was successively dismissed, and this at a time when the Queen was aware of the proceedings that were pending against her, and of course was interested in whatever testimony they had to give. But was this all that the Queen had done to show her utter disregard for the efforts of her accusers? Did she not face them, when she might easily and honor-

ably avoided their malice? When that opportunity was afforded her Majesty, she was counselled and implored to pause and reflect upon the opportunity then offered to her—she was warned to consider before she faced her enemies—she was entreated to bethink herself well before she ran into her case: and what had been her conduct? Her instant determination was to come here to England without delay, and confront her enemies. Up to the last moment her conduct displayed the same magnanimity; up to the last moment she refused the offer of a retreat, which would have enabled her not only to indulge whatever propensities she pleased without control, but even to move abroad with the safeguard and vindication of her honour formally pronounced by the two houses of Parliament. If this were the conduct of guilt, then all he could say was, that it was the most extraordinary instance of its display which he had ever heard or read of. If these were the means to which vice adhered, then he could only say they were not to be traced to any known spring of human action. With respect to the manner in which the proof of the case had been left, he was bound to remark, that it was left in such a manner as would be deemed fatal in any ordinary case. Such a statement was unparalleled. Nothing could be more distant from his intention than to ascribe a motive too like that motive which was commonly attributed on the other side. Far was it from him to attribute the formation of a conspiracy against the life or dignity of the Queen to any individuals, however high in rank, or notorious in power; but if an irregular course had been pursued, to whose account was that irregularity to be laid? On the contrary, all the specimens of their forthcoming evidence were, as far as already admitted or understood, altogether equivocal or ambiguous. Well might their Lordships cordially agree to this measure, if they looked not to after consequences. He would not say that it was a conspiracy against her Majesty; but he would say that no set of conspirators (be they who they might) could have marked out a common story answerable to their purpose other than that which had been pursued through the entire preparations of the business. They could not do better than get rid of this Bill of Pains and Penalties. Their Lordships would of course look to the evidence, and examine and sift it, as to its solid worth, long before they could form a disposition (to say nothing of judgment) independent of what had appeared in evidence at their own bar. Now then when he ventured to allude to what was called on the other side minute and circumstantial evidence, when he approached that subject of all delicacy—those points on which the Attorney-General seemed to feel so sore—on the first blush of such evidence; let the merits of this evidence be

fairly discussed, let it be examined, let the whole matter be fairly canvassed. But if it were possible that a grave and serious design were accidentally formed amongst any set of individuals; if it were possible that a design (far was it from him to say a conspiracy)—if it were possible for a design, and not a conspiracy, to be so formed; if it were possible that, with an artificial avoidance of that name, all its effects were realised, how then would their Lordships be disposed to look at this mighty question? What was the general character of that evidence? Their Lordships well knew—the world at large also knew—that the first act, the prime resource, of those who directed their aim against domestic happiness, was the corrupting of menial servants. He did not charge that description of persons with any general disposition to commit crimes; it was enough for him to bring before their Lordships the undoubted, the incontrovertible evidence, although facts were sworn to, which facts in their own nature admitted of no disproof. Never before had the private peace of any individual been so assailed. It was not usual thus to expose the domestic circumstances of any family, or to trespass upon private comfort in a way so careless. Undoubtedly their Lordships had been well advised, well persuaded: they had indisputably proceeded on reasons equally firm and obvious when they excluded her Majesty from some of those advantages possessed by every other subject of this realm. Evidence such as it was, that had already been produced, was of a description quite singular, exclusive, and appropriate. The witnesses produced at their Lordships' bar, in support of the charges made by Mr. Attorney-General, were indeed involved in a sad confusion. Their Lordships would have the kindness and the attention to dwell on this part of the subject. Were menial servants—were persons who had for a long time acted in that capacity—were these (and he pressed the question on their Lordships) fair witnesses in a court of equity, or in any assembly proceeding upon moral rules? He was, he could assure their Lordships, as much disposed to respect the sanctity of an oath, even when taken by foreigners, as any individuals in the land. He respected the sanction when it came from the mouths of his countrymen, and he respected it also from the mouths of foreigners. But if there was a community in Europe stigmatized and degraded below the average estimation of European communities—and he could assure them that he meant no disparagement to the Italian character in general—many were the proofs, or testimonials, on this occasion. What! were the Peers of England to be thus engaged, day after day, and month after month? What was the real character of this evidence? The witnesses advanced, and shown at the bar of their lordships, were witnesses extracted from a foreign land,

imported at a prodigious expense, and under none of those restraints which pressed upon witnesses chosen from the mass of the community at home, and sitting, after making their depositions, into the bosom of that society. This was not the sort of testimony with which the people of England would be satisfied; it was not testimony that could satisfy their Lordships. He knew them too well to suppose that feeble or imperfect evidence would ever be received by them as a fair ground of proceeding with a bill of *Pains and Penalties*." Such a proceeding could only be compared or assimilated to prosecutions and trials in periods long gone by, under a reign bearing, in some of its features, no distant similarity in some respects to the present. All that malice, all that interest or power could devise, was tried during the reign of Henry VIII. both in England and in Italy. In the present case, they had an immense production of evidence, all of an unusual kind, and forming a singular and extravagant contrast with that species of evidence which his Learned Friend (the Attorney-General) had given them reason to expect. But, instead of fulfilling these expectations, what had actually occurred? Many of the statements, strange and incredible as they were, became much more so as detailed from the lips of the witnesses. Let their Lordships fairly look at the means used in the collection of such evidence. Actual power, developing itself with a liberal hand, had been busily at work. It was not the wide hand, or open purse—no, not even the most precious streams of royal bounty, which had perhaps overflowed upon this occasion—that had produced all the effects which they were now considering. There was reason to suppose that power had been exercised as well as influence, and compulsion applied where other motives might not prevail. What was, in fact, the description of evidence adduced on the other side? In the first instance, it appeared that witnesses (designed originally for that distinguishable character) had been on divers occasions transformed into messengers; he would not call them by any harsher name. Keeping, as this their new capacity enabled them to do—he meant their lesson—steadfast in their minds, where was the wonder that they should ultimately join in the same story? How, after so many interviews, such long-continued social intercourse, and the exchange of so many mutual affections, could they be conceived to state any thing in itself incongruous or discordant? Accordingly they seemed to have certain facts treasured up, embalmed as it were in a perpetuity of recollection; although, when tried upon other topics, or when their attention was drawn to other circumstances, equally memorable, the faculty seemed to have abandoned them. Their leading man, the captain of this horde of witnesses, the great

delineator of the plan of accusation, Majocchi, the renowned Majocchi, himself testified to what? To any positive act of criminality? Oh, no! What, then, did he testify to? any thing which by a liberal or judicious mind could be admitted as indicative of criminality? Strange it was, but important to be observed, before he entered upon a closer examination of this person's declarations—of the statements of this, true and faithful creature—well did it deserve to be noted, that even his testimony fell far short of the charges as set forth by Mr. Attorney-General. He conjured them also to bear in mind that there was not one of the witnesses who had appeared at their bar who had not previously been examined, and who had not made some deposition before the Milan tribunal. Let them now then well mark the distinction; let them contrast with these persons the rank, station, character, and conduct of those individuals to whom, indeed, Mr. Attorney-General had alluded in his opening speech, but whom he did not choose to call in support of his allegations. Not one of the witnesses on the other side, not one of the persons employed to destroy the reputation of a Queen of England, not one was to be found who had not gone through the discipline and drilling of a Milan Tribunal. At that great receipt of perjury—and he meant nothing disrespectful to any particular member of the Commission—but at that storehouse of false-swearing, and all iniquity, was every witness against her Majesty the Queen regularly initiated. How could it be regarded as necessary, with a view of purifying evidence, that it should first undergo a drill at Milan? However captious some persons might be inclined to appear, he doubted whether they would require a probation of this sort. But, indeed, it had turned out not only that witnesses had been long kept in England, but that many had been maintained on the opposite coasts of Holland and France. It appeared, too, that they had been maintained at an enormous rate, far beyond every rule of proportion that ought to have been observed. Sacchi, who had filed a post abroad, not above the office of a servant in his most prosperous days, lived in splendid idleness for a long time in England, enjoying for that period the luxury and attendance of a field-marshal. Why were the witnesses on the other side thus concealed, or thus entertained? Small indeed had been the services of these people when they were thrown into the balance, and compared with their remuneration. Was it not also a matter well entitled to their Lordships' attention that these witnesses should have been cooped up together, week after week; that they should have been forced into intimate society, and their motives necessarily brought into resemblance, and their objects in some degree identified? It was remarkable, too, that they were sorted, not as much with re-

ference to the countries from which they came, or the languages in which they expressed themselves, as with regard to the depositions which they were to make. It was not his wish to pass any censure upon this rare con-
 sideration, the select society of Cotton-garden. Imprisoned as its members were, they were rather objects of commiseration than of angry investigation. Strangers to this land, knowing as little of their Lordships as their Lordships cared about them; what did their evidence, fairly weighed, amount to? It had indeed been contended that Italian evidence was as respectable, was of as high authority, as evidence derived from any other source. In order, then, to form a clear estimate—to introduce some light on this subject, he would refer to opinions entertained and to views taken in other times, and in alluding to which he could not possibly be supposed to indicate the slightest analogy with any occurrences of the present day. When he reflected the reign of Henry VIII. he was sure that their Lordships would join him in regarding that as the era most fertile in the precedents for the measure now before them; but which did not, he believed, afford a complete precedent for it in any point of view. Yet it might be curious to inquire what was the estimation of Italian evidence throughout Europe at that time of day. It was upon record, it rested on the best historical authority, it was transmitted under the sanction of the names of eminent Italian jurists, that witnesses might be found in that country at a pretty cheap rate to authenticate or controvert any story. The grave doctors of the University of Bologna declared, after a solemn council, and by a decree which they submitted *sigillatim*, that having well and maturely considered the whole matter between Henry VIII. and Catherine of Arragon, they were of opinion that his Majesty the King of England ought to be divorced from his wife. There was at that time something in existence not very unlike a late commission at Milan—an institution for drilling witnesses previous to their exhibition in open day. Could he look at such witnesses, and not feel how applicable to them was the language of a great orator and philosopher of antiquity, when describing individuals not very dissimilar, and when alluding to the absence of that kind of testimony which was most desirable:—“*Sunt in illo numerus multi boni, docti, prudentes, qui ad hoc iudicium deducti non sunt: multum prudentes, illiterati, leves: quos varis de causis villos concitatos. Verumtamen hoc dico de toto genere Græcorum: quibus iurjurandum iocus est? testimonium, latus? estimatio? restra, te-
 ptebra: laus, merces, gratia, gratulatio, proposita est omnis in impudenti mendacio.*” To come, however, to that period of our own history to which he had already alluded, it might be of importance to remind their Lordships of some circumstances which had

been carefully preserved by a most faithful and honest historian. The author in question was Bishop Burnet, a man whose sobriety and accuracy of narrative were alike admirable. At that time it was deemed politic by the English government to institute certain inquiries in Italy. They were conducted under the superintendence of a gentleman, who, he had no doubt, if now living, would be described by the Learned Friend the Solicitor-General as being a most profound and skilful person, eminently conversant with the laws of his country, and whose name, by a strange coincidence, happened to be Cooke. No doubt he was a man of the utmost probity, and extremely learned in the law; but his commission and achievements in Italy were now a matter of historical discussion. Let them hear, then, Bishop Burnet. These were the terms in which he spoke of the mission, and of the way in which it was executed:—“But Cooke as he went up and down procuring hands, told those he came to that he desired they would write their conclusions, according to learning and conscience, without any respect or favour; as they would answer it at the last day; and he protested that he never gave nor promised any divine anything till he had first freely written his mind, and that what he then gave was rather an honourable present than a reward.” In a letter to Henry VIII. himself, the same worthy person thus wrote—“Upon pain of my head, if the contrary be proved, I never gave one man a halfpenny before I had his conclusion to your Highness, without former prayer or promise of reward for the same.” Thus they found that, even at that time, the distinction of the civil law between reward and compensation was clearly recognised. Amongst the despatches then sent from Venice by Mr. Cooke to the British government were some rather singular and instructive specimens of diplomacy. It was matter of amusement to attend to the account rendered by this individual on one occasion. What he was about to quote before their Lordships, in the way of general illustration, was the copy of an original bill of expenses, or rather a part of it, audited and signed by Peter a Ghinuccis:—“Item, to a Servite friar, when he subscribed, one crown; to a Jew, one crown; to the doctors of the Servites, two crowns. Item, given to John Maria, for his expense of going to Milan, and rewarding the doctors there, 30 crowns.” In another letter, the same excellent missionary thus expresses himself—“Albeit I have, beside this seal, procured unto your Highness 110 subscriptions, yet it had been nothing in comparison of that which I might easily and would have done; and at this hour I can assure your Highness that I have neither provision nor money, and have borrowed a hundred crowns, the which are spent about the getting of this seal.” But

on the subject of Italian evidence there was authority even yet more direct, and less susceptible of controversy. There were numerous individuals, natives of that country whom he had the satisfaction of knowing, and for whose characters he cherished an unfeigned esteem. But when he had to speak of the commonalty, and especially with a view to the sin of false swearing, it was hardly necessary for him to dilate on the notorious facility with which they could allege what was false, or deny what was true. Italy had been described by one who knew it well—its language, its manners, and its morals—as that part of the world in which, if remorse could be thrown away, every end might be easily attained—that was, every end which depended on perjury or fabrication. He was, however, drawn aside from the immediate question, and for this digression he craved their Lordships' pardon. The aim of his preceding observations had been to impress on their Lordships' attention the extraordinary nature of the evidence in this case. There was, indeed, in that evidence a most surprising conformity; but it was a conformity most unfavourable to the statement of the Attorney-General. His Learned Friend had made a statement which had no support in the testimony of his own witnesses. Who amongst their Lordships could forget the story of Mahomet, and of Mahomet's exhibition, as described in the opening speech of the Attorney-General? He had been represented as a man of brutal and depraved manners, and as exhibiting the most indecent gestures; as actually imitating the sexual intercourse, in order to furnish amusement to her Royal Highness. This was a statement which seemed to point to evidence of the most damning kind; it was a statement too which effort after effort had been made to substantiate, and in vain. The result of all their inquiries was to prove that the exhibition so described, was nothing more than one of those common displays of buffoonery which had often been witnessed by the purest and most virtuous of their wives and daughters whom it was the happiness of their Lordships to possess. Majocchi, the chief witness on the other side, did not even pretend to insinuate that Mahomet's performance had any thing improper or indelicate about it. With all the Solicitor-General's dexterity of investigation, he had not been able to show Mahomet, the buffoon, in one indecent attitude. Even when the trying question was put with regard to the state of the man's trousers, what was the answer? Why, that they were as usual, that his dress was not at all disordered. Here, then, was an elaborate attempt utterly defeated. Their Lordships, for reasons best known to themselves, but for reasons, he doubted not, that were dictated by consummate wisdom, and which they had not proceeded on till fully enlightened by

experience, and a careful review of all the precedents which could bear upon the present case, had prevented him from unobtrusively on this failure, so soon as he should otherwise have done. He felt happy, however, in the confidence that their Lordships could never have intended to prejudice the cause of her Majesty. No doubt that, when they so resolved, it was from having already made up their minds to join in the unanimous verdict of acquittal which the country at large had already pronounced. The story of the Attorney-General had never even been dreamed of by his own Italian witnesses. It was too wild and incredible for individuals who had been brought here from abroad, and removed from the situation of couriers to a state which many landed proprietors might envy. Signor Sacchi, or Sacchini, had, it appeared, been living in this country, attended by his man-servant, and at the rate of at least 400*l.* or 500*l.* a year. This was an income which in Italy would be equivalent to 1,400*l.* or 1,500*l.* Their Lordships had seen how he was dressed, and had also heard him state, that, although he had descended to the office of a courier, he had always been in easy circumstances. It was not surely difficult to form a right estimate of such testimony. The pay, or remuneration—and he would call it the hard-earned pay of the captain and his mate, had astonished all mankind; had astonished them in consequence of that publication of their proceedings, which, in contradistinction to every ordinary rule, they had thought proper to allow. He would not, however, dwell upon topics so unpleasant, at any greater length. He should have stood with confidence and steadiness upon his main ground of defence, even if there had not been so great a blank in the evidence—so scanty a supply, as compared with the mighty promise. The defence would have been entire and complete, although the Attorney-General had adduced evidence corresponding with all the minuteness of his statement. If that statement could be at all borne out—if the topics which it embraced were such as could be with any propriety alluded to, how were they to account for the absence of those ladies whose separation from her Majesty's retinue had been held up as a fact at once important and decisive of the question? They were persons of rank, known in their own country, and esteemed and loved in proportion as they were known: they were persons on whose reputation not even the vestige of a shadow had ever rested. But the Attorney-General called no one of them. There was not, however, a judge at the Old Bailey who would not, under such circumstances, have required their evidence as the most satisfactory test that could be applied. This he would do on the trial of a misdemeanour; this he would do in a case of felony; and of how much more importance, therefore, did a

rule of this nature become on a question of high treason, or what was but technically distinguished from it? He conjured their Lordships to remember that they were not now sitting in their capacity as a court of judicature, they were not compelled to take cognizance of this matter, or to bring it to any issue. They might, if they pleased, dismiss it; they might give it the go-by; and, gracious God! what was there in the case to induce the Peers of England to pursue a Queen to destruction! What was there in the testimony brought from out their presidia in Cotton-garden—what was there in that to induce them to run counter to a sentiment almost universal? O, let it not be said, that in that sacred temple, that sanctuary of justice, the Peers of England, with a rash head, had made up their minds to bear down its most venerable symbols, upon grounds so weak and so fallacious, and to sink themselves in eternal condemnation at the tribunal of after-ages.

Mr. Brougham here paused, and threw himself on the indulgence of the house for a short relaxation. This was readily granted.

After an absence of three quarters of an hour Mr. Brougham re-entered the House, and their Lordships having taken their seats, the Learned Gentleman proceeded with his address. He had, he observed, to crave their Lordships' pardon for the delay which his absence had unavoidably occasioned. He would now submit to their Lordships all that occurred to him on that part of the case which was connected with the evidence, and he was afraid he should be compelled to solicit their Lordships' attention for a considerable time to the important considerations which here presented themselves. The first point that would necessarily arise in their Lordships' minds was a recollection of the principal parts of the evidence, and their practical application to the case. Here it would be his duty to notice, in a particular manner, the first witness, who would be long known in this country, and throughout the world—whose favorite expression would be handed down, much after the same manner as the sayings of some of the ancient sages had reached our days; their names indeed were lost; but they still existed in the celebrity of their brief and pithy sentences. That witness had distinguished himself in this trial by an expression equally brief, and to him more useful: that one sentence appeared to comprise the entire practical result of all the wisdom and all the experience which he had accumulated in the study of his art; and, as long as the words "I don't remember," which he used in the practice of that art, in which he evinced great skill—so long as those words were known in the English language, the image of Majochi, without the man being named, would forthwith arise to the imagination. He was a witness of the greatest importance in this

case. He was the first called, and last examined. His evidence accompanied the case nearly throughout; it almost extended over the whole of the period to which the charges themselves referred: in fact, it went to the period when he was dismissed, or rather when he retired from the Queen's service, and was refused to be re-admitted—which was about the time when the charges were brought. He and De Mont stood apart from the rest of the witnesses, and resembled each other in this respect—that they went through the entire case. They were indeed the great witness for the bill—the other were rather witnesses of a confirmatory description. They were all willing witnesses—some of them had already received much. A part of them were influenced by actual acceptance—a part by the hope that the gratitude of those who summoned them would operate greatly to their advantage; they were, therefore, zealous in the behalf of their employers; and of course, they would not have stopped short at mere confirmation, if, by any means, they could have carried the case through. This he stated, with a view to the relative importance of the character of all the witnesses. He would now entreat their Lordships' attention whilst he entered on this branch of the subject more in detail. He had often heard it asserted that the great prevailing feature of Majochi's evidence—his want of recollection signified but little, because a man might err; memories differed. He granted that they did. Memories differed as well as honesty. He did not deny it. But he thought he should be able to show their Lordships that there was a sort of memory utterly inconsistent with any thing that he could figure to himself. But why should he invoke his fancy? Why, when he had only to recollect Majochi and his evidence? He could point out parts of that evidence, than which he defied the wit of man to conceive any stronger or more palpable instances of false swearing than might be traced in the use of the words which he had before quoted. He would not detain their Lordships by citing cases where the answer "I don't remember" might be innocent—where it might be meritorious—where it might not only be no impeachment, but confirmatory of the testimony of a witness, and tend to the support of his credit. Neither would he allude to cases where such an answer would be the reverse of all this—where it would be destructive of the testimony, an utter demolition of the credit of the person examined. He would not quote any of those cases, but take the evidence as it stood; and from it he would show, that while Majochi's testimony abounded in guilty forgetfulness, no one circumstance, supporting the idea of an innocent forgetfulness occurred. He would proceed, at once, to give their Lordships proof positive of this man's perjury—and this he would do by adverting to his mode of forget-

ting. In the first place, he begged leave to direct their Lordships' attention to the way in which this witness swore as to the position of the rooms of Bergami and the Queen, with reference to these charges. The great object of the Attorney-General, as shown by his opening, and as evinced by the whole of his examination, was to show a communication between those apartments; and the manner in which Majocchi answered, indicated that he was privy to the concoction of the plan. The object of that plan was to prove the position of the rooms of the Queen and of Bergami always to have been favourable to the commission of adultery, by showing that they were near, and had a mutual communication, whereas all the rooms of the rest of the suite were separated and cut off from those apartments. Thus it was meant to support the inference of that guilt to which the charge related. Accordingly, the first evidence, who was to go over the whole case, was better informed on this part of the subject than any other of the witnesses. There was more appearance of proof in his testimony on this point—it presented more accuracy of detail than that of the other witnesses—when he was examined with a view to extract criminal matter against the Queen: but he was not prepared for any attack, and his regular custom was utterly to forget himself, in order that he might be protected against the severity of a cross-examination. The questions constantly asked were, "Where did the Queen sleep?—In an apartment near that of Bergami. Were those apartment near or remote?—They were near." Questions of this kind were asked over and over again, so good a thing was it thought to procure the answer that the apartments were "near" repeated with success. The same answer was invariably given. Bergami was represented as occupying an apartment near that of the Queen, with which there was a communication, sometimes by a passage, sometimes by a room, sometimes by a door. Then it was asked, did the rest of the suite live apart? Were they distant from or near to the Queen? Was such the position at Naples? It was important to advert to this point, because more was made of the approximation of the chambers at Naples than at any other place. In the direct examination, the witness was asked, "Did the people of the suite sleep in that (the Queen's) part of the house, or at a distance?" And the Italian word in answer was "*lontano*," which was interpreted "apart." He, however, remarked at the time that it meant "distant;" and distant it meant, or it meant nothing. Here then the witness had sworn distinctly, from his own positive recollection, and staked his credit upon the truth of a fact—upon the fact "that the rest of the suite lodged apart and distant from the Queen," which, coupled with the statement that the rooms of her Majesty and of Bergami communicated together, must have

the effect of combining both these circumstances, as a proof that means were adopted to indulge in a criminal intercourse. Majocchi positively stated, in the first instance, that "the suite lodged apart and distant from that portion of the house occupied by the Queen." Was there not, then, an end of his "innocent forgetfulness," if, when he (Mr. Brougham) came to ask him, in his cross-examination, where "the suite slept" he altogether falsified his former statement, and told him, "I don't know, or I do not recollect?" It clearly had this effect: because he must have known, and he must have recollected the circumstance, since in his examination in chief he had sworn that two rooms, those of the Queen and of Bergami, were near, but that the rooms occupied by the suite were distant and apart. When he spoke of the proximity of the rooms in the one case, and their remoteness and disaversion in the other case, and when he afterwards declared, with reference to the latter, that "he did not remember where the suite slept," it was clear that he had perjured himself one way or the other, he cared not which, as much as if he swore he saw a person one day, and swore he did not on the next. The one was not a more gross or direct contradiction than the other. In stating his recollection and his forgetfulness, if their Lordships would look comparatively to where the witness remembered and where he had declared he had forgotten, he believed they would almost uniformly be led to a similar conclusion. He would give one specimen, from the evidence itself, to show their Lordships, when the witness was asked any questions relative to the Queen's apartments, in support of the case, where he had learned his lesson, and was examined in chief—where, in short, he was not afraid to speak, no opposition being made to him—how very tenacious his memory was. He would convince their Lordships what his recollection really was; he would give them a fair sample of his memory. He (Mr. Brougham) asked him—

The LORD-CHANCELLOR.—What page do you quote from?

Mr. Brougham answered, "Page 47."

The EARL of LIVERPOOL suggested that the Learned Gentleman, when he quoted from the minutes of evidence, should specify the folio.

Mr. Brougham proceeded. In cross-examination he asked the witness—(and he did so, in order to show his accuracy of recollection on particular points, where the evidence had been well drilled):

"Have you ever seen the Villa D'Este since the time you came back from the long voyage?—I have."

"Was the position of the rooms the same as it had been before, with respect to the Queen and Bergami?—They were not in the same position as before."

And then the witness told a long story de-

scribing the alterations. "There was," he stated, "a staircase, or landing-place of a staircase, on one side of the Princess's room. There was a small corridor, on the left of which there was a door that led into the room of the Princess, which was only locked; and then, going a little farther on in the corridor, there was, on the left hand, a small room, and opposite to this small room, there was another door, which led into the room where they supped in the evening. There was this supping-room on the right, there was a door which led into Bergami's room, and on the same right hand of the same room there was a small alcove, where there was the bed of Bergami. I saw two doors open always—but there was a third stopped by a picture." Now could any recollection be more minute than the recollection of a man who could state all these particular circumstances?—He had no objection to this display of accuracy, in any point of view. If an individual were to invent a story entirely, if he were to form it completely of falsehoods, the result would be his inevitable detection and exposure; but if he built a structure of falsehood on the foundation of a little truth, he might then, by using some degree of address, place an honest man's life, or the life and character of an illustrious Princess, in jeopardy. If the whole edifice, from top to bottom should be built on fiction, it was sure to fall: but if it was built on a mixture of facts, it might put any man's life or reputation in jeopardy. He (Mr. Brougham) only wished their Lordships to contrast with this minute recollection of rooms, doors, and corridors, the circumstance of Majocchi not having the slightest recollection of a whole new wing added to the house in which her Majesty had lived. He recollected the slightest alteration respecting a bedroom or chambers in the house, but he recollected nothing of a whole new wing added to that house. This showed the dishonest character of the whole testimony. Of the same nature was his evidence when any calculation of time was required. He observed the most trifling distinction of time when that suited his purpose, and he recollected nothing of time when it was inconvenient for his object. In proof of this, their Lordships were requested to refer again to the celebrated scene at Naples. The first was from 10 to 15 minutes, the second from 15 to 18 minutes. Here the mean time was sixteen minutes and a half. The witness went to the window and fired a gun, exactly three minutes afterwards. Here the mean time was given at once. A quarter of an hour was then stated with equal accuracy, and afterwards three quarters of an hour. All this was in answer to his Learned Friend; all this was in the examination in chief; all this was thought by the witness essential to

his story; all this was to garnish the story with the appearance of accuracy essential to his purpose. But such minute accuracy was of use, not to him, but to the Queen.—When it was of use, not to the prosecution, but to the defence, then he could not recollect whether it was a whole night, or 8 hours, or any definite period. "Why could you not recollect the period of time on this occasion as well as on the other occasions?"—"I had no watch." "Had you a watch when you reckoned a minute, and the fraction of a minute?"—"No." Why, then, did Majocchi know the precise time on one occasion, and not recollect any thing of time at another occasion? He pleaded the want of a watch only when the defence could be served by time, or when he was asked something which he conceived their Lordships would consider of importance for the defence. Majocchi answered no categorical questions. When asked as to the number of sailors present, he could not tell whether it was 2 or 22. As to place he was equally in fault. Although he slept in the hold of the ship, he could not tell the others that slept at any time there by day or by night. Therefore he (Mr. Brougham) could ask their Lordships, whether any person ever appeared as a witness whose testimony was so varying, and so exactly suited to the character which the witness was to support? But this was not all. The answers "I do not recollect," and "I don't know," were such as could not by possibility be true, if the answers given in the examination in chief were true: as, in the instance to which he had referred in Naples, if the minuteness sworn to in his examination in chief was true, and founded in fact, it was impossible that he should have no recollection of the matters to which he was cross-examined. If it was truth that the rooms and doors were as he described, he could not by possibility know and recollect that, and be in total ignorance of the other parts of the house. In the same manner, this witness knew nothing of Mr. Hughes; he never knew a banker's clerk; he knew nothing of the name, he had never known any of that name, or any bank-r's clerk. But when he saw that he (Mr. Brougham) had a letter in his hand, and before he had in any thing refreshed the witness's memory, he clearly showed that he had never forgotten either the name or the place. By the demeanour of the witness, too, and the tenour of his answers, their Lordships must have seen the same change evinced. Majocchi gave as his reason for this inconsistency, that familiarity had made him forget the name and occupation of his familiar. The ground of forgetting his trade was the familiarity which formed the ground of calling him "brother banker." It was very manifest that Majocchi was not very willing to

give the name, or the trade, or the place of residence, of any one with whom he had been acquainted; for what reason he (Mr. Brougham) would leave their Lordships to judge. But, before he should be done with this witness he would give another instance of his dishonest intention. Their Lordships recollected the shuffling prevaricating answer he had given respecting the receiving of money. He had first told that Lord Stewart had given him money at Vienna. Afterwards he had, twice over, sworn that he had never received money at Vienna from any person. It was the same as to his receiving money at Milan. "I remember to have received no money at Milan—I rather believe I received no money—Rather no than yes—non mi ricordo." He (Mr. Brougham) had some guess what evidence this witness must have given when he laid the foundation of the favour which he had since uninterruptedly enjoyed. When he had been laying the foundation on which his fortunes were to be built, their Lordships would recollect he knew a great deal. In the opening speech of his Learned Friend much was stated which this witness was expected to prove. As an instance, their Lordships would recollect that Majocchi was to have proved that the Queen and Bergami had been seen kissing one another in a bedroom. Did Majocchi swear this? On the contrary, the witness negatived it in the completest manner. It was only whispering. This single instance showed the whole character of his testimony; but he would give their Lordships others quite as fatal to the credit of the witness. He would show to their satisfaction that Majocchi had told one story to the instructors of his (Mr. Brougham's) learned friends; but that when brought to their Lordships' bar he told a far different story, probably from knowing the facts and documents which he (Mr. Brougham) had got in his possession, but more probably from having forgotten part of his invention. This partial forgetfulness was much more likely where the whole was an invention than where truth was the foundation of testimony. So it was in this case. Majocchi recollected part of his testimony. "Yes" was ready for the question. But parts he did not recollect. It was perfectly evident that what one saw was far more intensely and permanently impressed on the mind and recollection than what he might afterwards invent and add to his actual observations. Thus it was that Majocchi recollected parts, and forgot other parts. He had been asked whether he had seen any one bring broth to her Royal Highness?—Yes. "Do you know whether any entered the room with her Royal Highness?—I don't recollect. After Bergami had entered the bedroom (assuming that he had seen him enter), did any conversation take place?—Yes." Well, but conversation might be very innocent; that would not do. "Was there any thing else?" This question had

been asked because Majocchi must have sworn something else before. To elicit that now, he was asked if there was any thing else. There was, in fact, something which his Learned Friend wanted. But Majocchi forgot part of his invention, as always happened to certain persons whose names he would not mention to their Lordships. The something given in answer, therefore, was "only some whispers." If it were said that whispers were all that his Learned Friend meant, he would say, No. His Learned Friend had opened very different facts; but besides, from the examination of the Solicitor-General, it was evident that more was expected. "Aye, but was there any thing more?" Whispering would have satisfied, if nothing further had been sworn before. But the inquiry was pursued—"Did any thing at any other time occur?" Oh, it might not be at that time; was there any other thing at any other time?"—"Whispering," said the witness again. Another instance, to the same effect, he would call their Lordships' attention to. He hoped he was not too minute. He felt it necessary to enter into this detailed investigation, for it was so that conspiracies were detected. "At Genoa you saw her Royal Highness riding upon an ass?—Yes." There was something, however, expected more than that fact. There was nothing indecorous in riding upon an ass by day light. "Did you make any observation? What passed?—He held her." Very well; there was a great deal in holding her, and a great deal might depend upon the nature of the tenure. "What else?—He held her from falling." Aye, that won't do. His Learned Friend was not satisfied with that, having had something in his hand which the witness had sworn before, and not knowing that it was a different, a very different thing, for a false sweeper to recollect his fiction, and for an honest witness to recollect what he had actually seen. His Learned Friend, therefore, proceeded:—"Did you make any other observation?—No; they spoke together." A number of other things might be recalled to their Lordships' recollection to the same effect. The witness stated respecting the breakfast what others had stated. What was fact he recollected; but what he said he did not recollect, was as clear as what he did recollect; and if his recollection were true, he would have recollected as well other facts as these he pretended to recollect. He (Mr. Brougham) must also remind their Lordships of the incredible story told by Majocchi, when he would have them believe that the Queen, having free access to Bergami's room, through rooms where no person slept, she chose rather to pass through an occupied room. The witness would at first have represented that there was no other access; but, after much equivocation and perjury, he admitted that there was another access; yet, having admitted that the Queen

bed easy, safe, and ready access to the place of guilt, he represented that she preferred passing through another room where Majochi slept—where he slept in a bed without curtains; that she preferred passing through a room so small, that she must have touched the bed—through a room where a fire was burning; and, what was most monstrous of all, they were to believe that, to make detection sure, she stopped in her passage through the room, and looked in the face of Majochi, to ascertain whether he was asleep. The whole of this story defied itself.—Why pass through a room where she must be observed, rather than through a room where none slept, where there was no fire, no uncurtained bed, and no possibility of being observed? Was she indifferent because it was a person she knew nothing about, no servant of her's? The looking in the face was quite improbable; but it was a statement which one was very likely to invent in a country where robbers were not few and robberies not unfrequent. A robber naturally came to the bed where a lady slept, and looked in her eyes to see if she was asleep. If she was not, he could proceed no farther. It was therefore very wise and prudent in the robber to take this precaution; but for a person going to commit adultery in the next room to look in the face of him whose mistress she was, and that person the Princess of Wales—when the very looking condemned, exposed, and convicted her—this was the most incredible, the most silly invention that could be made. But it was providentially and most happily ordained, for the detection of guilt and defence of innocence, that such inventions were often carelessly put together; and here the invention was, in particular, thoughtlessly put together. With respect to Bergami's dining at Genoa, Majochi was contradicted by the other witnesses. When asked if he did recollect his being at dinner when Villascarti, the courier, arrived, he knew nothing of such a person. But when asked whether he remembered knocking at Bergami's room-door, he replied "I remember perfectly when Villascarti arrived." Then, recollecting the contradiction, he said it was not on that account he remembered it; but because thieves had arrived and attacked the house that night. But there was one part of Majochi's evidence upon which he would rest as gross and palpable perjury. It was so gross and palpable as to dispense with the necessity of pointing out perjury in other instances. He denied that he had been dismissed by her Royal Highness; but said he had left her service because of the bad people that were about her. This he said with the double purpose of raising his own character, and debasing the Queen's. But he would show this to be false from his own mouth. When asked whether he had not made application to get back, his answer was—"I don't

recollect." "Did you apply to Count Schiavini to be taken back? I did." The moment he mentioned that, his assertion, that he did not recollect, failed; therefore, to save himself, he told them all—and very material it was for their Lordships' consideration—"Yes, yes (cost, cost), I did apply to Schiavini, but it was in joke." Now, their Lordships would mark that. The former answers were probable, if this was in joke; if not, they were positive perjury. If, then, this was in joke, what followed he would have at once answered by "No." "Did you apply to several persons? did you apply to Mieronymus?—*Non mi ricordo*." This last answer was gross and wilful perjury, or the first answer was gross and wilful perjury. He (Mr. Brougham) cared not which. The joke, in fact, was an invention to protect the other invention, or the story was perfectly incredible; that he applied in joke to Schiavini, and that he did not recollect whether he applied to others. Their Lordships recollected the manner too of this witness. He showed some flourish and figure—"I would rather eat grass than go again into the service of the Princess." Was it true, and was it the language of an honest man, that he would rather eat grass than go back; that he applied in joke to be taken back; and that he could not afterwards swear that he had not applied to others to be taken back? Here then was the mystery unravelled of Majochi's *Non mi ricordo*. His testimony was false, either one way or the other; he (Mr. Brougham) cared not which. He must now call their Lordships' attention shortly to the next witness; it would be very shortly, because those well-paid swearers exhibited a certain something in their demeanour which at once showed the value of their testimony. In courts of justice nothing was more sure to disclose the falsehood of testimony than a flippancy and pertness in the manner of telling a story. A false witness was always flippant and impertinent when pressed. As an instance of this their Lordships would recollect that Paturzo, when asked whether the guns were on deck, answered "Yes—they were not in our pockets." He (Mr. Brougham) only mentioned this, because his Learned Friend had said that this was a good, correct, unimpeachable witness, and because his testimony had been represented in the opening speech as infinitely important. He would venture to say, at least, that a better paid witness, or better paid Italian for any purpose, had never yet come to his knowledge. The money paid was upwards of 2,000*l.* sterling a year to one who had been mate of a vessel in the Mediterranean, and who was now fourth-part owner, and as a means of making compensation to him instead of giving him a reward. The profits of the vessel, according to this calculation, was 8,000*l.* sterling a year. This, in the Medi-

terranean, was equal to 16,000*l.* or 20,000*l.* in this country. Not one half of this money did any trading vessel in the Mediterranean ever make. In Messina the whole ownership would be thought most fortunate that produced 400*l.* a year. That was a great income in that country. None but the Noblesse was ever heard of that had 1,500*l.* a year there. No such thing was known among traders or merchants. If any master and his mate made such splendid fortunes, their names would have resounded through Italy as the rich of the earth; and none would visit that country who would not wish to see them, and to have letters of recommendation to them, as eminent and distinguished among their countrymen. The cobbler was known in history, but this master and his mate had never been known beyond the streets of Messina till they came to merit this large compensation. The mate made nothing equal to 2,000*l.* sterling a year: this was his own story. The captain, as might be expected, had still more; he had more than 2,400*l.* sterling a year, besides having every expense of travelling, living, and perhaps clothing, paid. This too was given in addition to the profits of his ship, which was all the time sailing and earning and in addition to the profits of the cargo. Yet it was only a compensation. The Captain was paid all this money as compensation, not a recompense! This master had had a quarrel connected with his testimony. He told with some *amerte* that himself, his mate, and 22 men, had been engaged, including profits, expenses, and trade, for one-fourth less than he now received for coming over to swear upon this occasion against the royal personage whom he had then served. But he added, that when royal persons made engagements with him, the uncertain profits were greater than the certain contracts. This was a great truth, well known to many there, that something certain was often stipulated, but that still more was often given as honorary and voluntary compensation. The master was not, therefore, to think his compensation limited here to 2,400*l.* a year if he pleased them—if he fully made out the case—if the case should come well through his hands, and no accident befell him in giving his testimony. If he should succeed in this, he must get what would make a mere joke of the 2,400*l.* a year. He (Mr. Brougham) had mentioned the inducement of reward, but there was another inducement. Was there no spite entertained towards any of the parties? The whole of his testimony was bottomed in revenge. He had distinctly sworn that he had had a quarrel with Bergami, whose business it had been, as Chamberlain, to pay money for her Majesty, and that he had complained to his own Ambassador of being deprived of 1,800*l.* This was proved from the witness's own mouth. This appeared in pages 184 and 185 of the evidences. In consequence of this complaint to Count Ludolph,

this witness, Garquillo, became known to the English Government. The only means they had of knowing his name and place of abode was his complaint against the Queen, and his claim of 1,800*l.* At page 185; at the foot of the page, it was stated, "I have received nothing: nay, my Minister and the Colonel to whom I have mentioned it, told me that they knew nothing, and that I might go to London, and see up on this particular." He now came to London, to see into it, and he would not see the less clearly that his evidence was of use. There were other matters in this witness's testimony of a very peculiar character. He (Mr. Brougham) thought that the Princess of Wales, stooping on a bed in a vessel with her arm round a gentleman, and from time to time kissing him, not a very ordinary sight even for nautical men, nor such a sight as they could forget. Yet the master and his mate forgot, or differed most materially in the history of this matter. The mate and he had seen the Queen sitting on Bergami's knee near to the mainmast. He (Mr. Brougham) stated this minutely, because the mate considered it important. The mate meant to say that his evidence was given with particular accuracy, if not correctness. Yet he said it was not on a gun that the Queen sat on Bergami's knee. Not one word did he say about kissing and similar facts, the most important of all. Their Lordships would, therefore, conclude with him that they did not happen. The captain, on the other hand stated that it was on a gun, and not at the mainmast, that the Queen sat on Bergami's knee. But did they speak to the same time? Yes, for the Captain said the mate saw it at the same time. The mate, however, had not seen it; and his Learned Friends had not dared to ask him any questions respecting it, because the captain had not had time to be trained sufficiently. He, (Mr. Brougham), merely mentioned these circumstances, to shew that the story could not be true, because, if it were, such differences would be impossible. Yet those pure, fastidious, and good scrupulous witnesses, from places chaste and sacred as the garden of Eden before the fall—from Messina and Naples—displayed a nicety of moral caution that was exceedingly exemplary. The Captain, because the Queen was seen leaning over Bergami without touching him, desired the mate to go away, because, on account of their relation as master and mate, he was bound to protect his morals, and also because the ties of blood imposed a responsibility upon his conscience. Therefore he would not let his mate be near that part of the ship. He never said that the Queen wished him to withdraw, or that there had been any order from Bergami; the guilty pair cared not who saw them, but the virtuous Garquillo, reviving, in the modern Mediterranean, a nicer sense of purity than the ancient ocean there had ever seen, would not

allow his relation to view such a pair, for when they were so near they might touch, and that in the presence of the mate Puturzo. There might be those who believed all this; he could not account for the belief of some; but if there were not another thing to be objected to Garquolo and his mate, this was sufficient to prove that their testimony was not true. This was all invented, or as fabricated and gross falsehood. The captain meant to improve the case, to take in cautious minds; perhaps to increase his claim to enlarge the uncertainties, which with royalty were greater than certainties; to improve his chance of obtaining the 1,300*l.* for which he had come over to this country. But one more statement of this witness he would mention, and then he should be done. He held up these witnesses as models of perfect art, as well finished examples of their kind, as the best paid, and altogether such as ought to be esteemed very choice specimens, displaying zeal in proportion to the much they had received, and the more they expected. But happily there were limits to this art, as to all human arts; and if there were not, God pity the innocent against whom this mighty art might be directed. It was found here that the accomplished swearers could not make their testimonies tally without communication after the first had gone through his examination, and before the other was begun to be examined. But the master and mate were evidently descendants, lineal descendants, of the doctors of Bologna. They were afraid to have it thought that they had spoken together on the subject of their evidence. They were living together, lodged together in the same magazine, breakfasted together that very morning; yet, with all this, from a degree of care that would do honour to the nearest relations, and which he wished all relations observed, they never entered on this subject, and that a subject which occupied the attention of every mind in the kingdom. This was not peculiar to them, but the manner in which it was stated was peculiar. "I am not the man to speak of such a subject," replied the captain. Why? "It would not be decent; it would not be fitting that I should say any thing out of doors of what I have been asked here." Did you ever speak to the mate of it?—"O never, never." Did you agree that you should not speak of it? Did you determine that you should not say any thing of it, and agree thus—"You and I coming here upon one subject must not mention that subject the one to the other?" He (Mr. Brougham) knew not whether the witness had understood this question, but his answer had been "Yes." One general remark upon this point yielded much satisfaction and consolation. Whatever injury this inquiry might do to the highest and most illustrious persons, whatever mischief to the conduct and good case of social life might arise for some time to come from the

details brought forward, one spot, one little land of Goshen, was sacred and pure from contamination. From all the impurities which offended the delicate—alarmed monarch;—and went so well nigh to contaminate the morals of the nation, one spot was safe; and, strange to tell, that spot was no other than Cotton garden, in this very vicinity. Let no person suppose that the danger was so great as it had been represented, or that there was any truth in the assertion that the island was flooded with impurity and indecency; for Cotton-garden was pure and uncontaminated. Of all the unclean horrors which had been conjured up, it turned out that not one whisper was heard in Cotton-garden. There not a word was spoken, even remotely connected with a matter which so much vitiated the mind, and which deuced, he would say, the reputation of this country. If their Lordships chose to believe this, far was it from him to interrupt a delusion so pleasing; it was delightful for the mind to repose on such a spot. If they disbelieved it, they must believe something else, and that was—that all the witnesses in this depot were perjured again and again. The course of his observations had now brought him to some personages, even of greater importance than the captain and mate, however pompously introduced by the Solicitor-General—he meant De Mont and Sacchi. He trusted that he should be excused for coupling them, united as they seemed to be by the closest ties, and resembling each other as they did in some of the most material particulars of their history. Both had lived under the roof of the Queen—both had enjoyed her bounty—both had been reluctantly dismissed, and both had solicited to be taken back into place and favour. The bonds that originally united them had subsequently continued—they had lived in the greatest intimacy, not less in their native mountains of Switzerland than in England: they had remained here nearly for the same period of time, above twelve months, and those months had been occupied by them in a manner best calculated to fit them for the service of their employers, in obtaining a knowledge of the classic writers of our island, through an accurate study of our language. Incidentally this gave them a great advantage—only incidentally—for, modestly, they did not brag of their proficiency, but availed themselves of the assistance of an interpreter, which gave them an opportunity of preparing an answer to the question they had understood, while the interpreter was furnishing them with a needless translation. The other points of resemblance were many, and he would not further dwell upon them in particular, because they would be illustrated as he proceeded. He wished, in the first place, to remind their Lordships of what sort of person Mademoiselle de Mont described herself to be, be-

cause it signified very little what he should be able to prove her, compared with what she had proved herself. He would take her own account, and he could hardly wish for more, though she might well wish it less with the most ordinary regard for her own safety, not to mention the sanctity of truth. She was a person of a romantic disposition, naturally implanted, and certainly improved by her practice in the world. She was an enemy to marriage, as she stated in her letters, and did not like mankind in the abstract, whatever she might do in the particular—*omnia omnibus quamlibet inimica* perhaps she might turn out to be in the end. However, she hated mankind in the abstract, only making an exception in favour of such a near friend as Sacchi, whom she dignified by the title of an Italian gentleman, though he, ungrateful man, would not return the compliment by acknowledging her to be a countess. Marriage, she said, she did not like—she loved liberty, “the mountain nymph, sweet liberty,”—and in pursuit of her among her native hills their Lordships would not fail to see into what company she had fallen. Were these to be reckoned among the accomplishments of this lady? By no means: she was the most perfect specimen, the most finished model, of a waiting-maid, the world had ever seen: none of her own writers, and none of our’s, whom, no doubt, she had studied, had given such a pattern for imitation; Mollere, Le Sage, Congreve, and Cibber, had all fallen far short of this admirable original. He did not mean that all her qualifications had been developed at once; some of them had gradually made their appearance under the cross-examination of Mr. Williams, when she showed that her education had done honour to her natural abilities; she had shown that she was gifted with great circumspection, that she possessed much readiness in adjusting one part of her evidence with another, and great skill, if the eternal laws of truth allowed it, in blinding and deluding her hearers. She evinced not a little readiness in reconciling the story she had told with the contents of the letters produced, which letters she had not forgotten, though she did not know that they were still in existence to be produced against her. Had she been aware of their preservation, and had her patrons known their contents, their Lordships would never have heard of her: she would never have been produced as a witness, but would have been shipped off as many others had been, like so much fresh meat or live lumber for their native country. But her constant mode was to deal in *double entendres*; Sacchi did the same, so that it was impossible to know what they really meant; to them indeed might be applied what formerly had been said of the Greeks—*tribus illis litteris, de multarum artium disciplinam, non ullum sermonis leporis; ingeniorum acumen, dicendi*

copiam: denique etiam, siqua sibi esse censerent, non repugno: testimoniorum religionem, et fidem nunquam ista notio coluit: totiusque hujusce rei que sit via, que exortitia, quod pondus ignorant. But the candour of De Mont had been praised, and why?—Because she admitted that she was turned away for a story which proved to be false—He had heard her applauded for other things, and especially where she said that she was sincere in some of the applauses she bestowed upon the Queen. In the same way she had been asked “whether she had not been in want of money?—Never. Did you not write to your sister that you were in want of money?—That may be so; but if it were it was not true.” This was called candour, and though in *rerum natura* there might be no connexion between truth and her statements, and though a thing’s being false did not prevent her either from writing or speaking it, yet to his no small astonishment he had heard her evidence praised for its fairness by persons of moderate abilities. He need hardly remind their Lordships, or indeed any man whose capacity was above that of the brute animals he abused by using, what what utter nonsense those talked who applauded the evidence of this witness for its candour. De Mont asserted that she was insincere—she allowed that she had told some-*rovs* falsehood; and what praise was due to that ingenuousness with which she told the house that she dealt wholesale in untruth, and that no dependence could be placed on a syllable that fell from her lips? Yet, in the opinion of some persons, so captivating, so seductive, a blandishment was this, that it blinded her judges to her faults, and opened their ears to all the tales of so accomplished and ingenious a liar. In any body but a witness candour might be approved; but here, “Pure, dear, innocent Swiss Shepherdess, how ingenious thou art!” was the cry, and immediately all that she uttered was to be believed. Certainly the strangest of all reasons for giving credit to a witness was to cite her candour in admitting that in no respect she deserved it. Look at her letters and at the explanations she had offered of them—He would not go through the details, but every man must be convinced that those explanations were impossible; they did not in any respect tally with what appeared in black and white—her gloss did not suit her text; they were wholly inconsistent, and the clear contents of the four corners of the document showed that what she was stating was untrue. The letters wanted nothing to make them quite intelligible, and her key did not fit her cipher: the matter only became doubtful as she enveloped it in falsehood by the inventions of the moment, by her extemporaneous endeavours to get rid of the indisputable meaning of her own hand-writing. A plain honest witness would know how to deal with these things, and would not entangle him-

ed in the miserable web of this dirty-work-creature. The sense of the letters was plain and obvious, and he prayed to God the their Lordships might so believe it, and might not stand a solitary exception to the conviction of all the rest of mankind. He hoped that they would believe that this woman was sincere in her praise of the Queen; that she spoke in her letters the language of her heart, and that her notions only had been changed as her mind became corrupted, when she fell into the hands of the other conspirators against her illustrious mistress. Another feature of this lady's character he had nearly forgotten—her affection for her sisters. The principle of her conduct, if she were believed, had been anxiety on this account: yet how had she proceeded? She had done her utmost to secure one of these innocents, of the age of 17 or 18, in a house, which, if her story were now credited, instead of being called a palace, deserved only the name of a brothel. Yet she had been content herself to submit to the contamination because the mercenary Swiss described herself as setting the profits of her place against its disgrace, as the Roman emperor did the money he obtained from a filthy imposition. She allowed that it was worse than an ordinary brothel, yet one of her sisters of fifteen, and the other of seventeen, whom she loved so dearly, were both to be introduced into it in creditable and comfortable situations. Such was De Mont by her own account; but who would believe her so bad? No woman could be so bad; yet she insisted that she was, because her own letters were produced against her. It was clear, however, that she had given her evidence in utter ignorance that her handwriting could be brought forward in contradiction. In referring to the evidence of Sacchi, there was one very pleasing symptom well deserving notice; it was connected with the reception it had obtained, and to the mode in which a false estimation had been endeavoured to be given to it. It showed how the age was improving—how it was rising above the vulgar prejudices of a few years ago, against the French and their leader. He remembered the day when few persons would have ventured to bring forward a principal witness in any case, much less in one of this delicate nature, who had been a soldier of Bonaparte, who had served during many campaigns with him, and who had been promoted by that Corsican usurper—that revolutionary adventurer—that tyrannical chief; then a French treasurer would have almost been considered another name for every thing that was profligate and abandoned. However, against the Queen of England he was thought a witness good enough; and, coming to England, he took upon himself the character of a gentleman; and he that had been once a common soldier in the French army, and afterwards a

courier in the service of the Queen, was brought forward as a person on whose testimony the utmost reliance might be reposed. He (Mr. Brougham) did not object to him that he had been a soldier, though perhaps he did not think that the Italians in the French army, and especially those from the north of Italy, were usually the most scrupulous of mankind. Sacchi, too, dealt in his *double entendres*; besides, he had gone by three whole names and a diminutive; two of them were known, and one yet unknown, but by three names and a half had he gone. When he came into this country, and was within the four seas, with De Mont, he began his *double entendres*, and he was not satisfied with one any more than with one name: he had got into the habit of dealing in *double entendres*; and accordingly his first was, that he had come here in the service of a Spanish family; his second regarded a law-suit, which had occasioned his visit to England. He stoutly denied, however, that he received any pay from his present employers; yet having been very unwillingly turned away by the Queen from the low office of a courier or equerry, he came to England, and lived like a gentleman of fortune. He resembled De Mont in another respect—they both showed the same want of connexion between their speaking and writing. He was asked how much money he had had at his banker's at Lausanne, and he answered fifty Napoleons. "Had you never any more?—Positively not." He was then asked whether he had never said that he had had more? What would have been the natural answer, if any man had ventured to put such a question to one of their Lordships? What would have been the reply? "Certainly not," because it had already been stated that no more than fifty Napoleons more, in fact, at the banker's. A letter was then shown to the witness, and he was asked, whether he had ever said (for he, Mr. Brougham, was not allowed to ask whether he had ever represented) that he had been in a miserable situation, and had taxed himself with ingratitude, and wished to be restored to favour. He answered, never; and that he never had been in a destitute situation. The next question was, "Were you ever in a situation to require compassion?—Never." "Did you ever ask any body to take compassion on your situation?—That may be so." "Are these letters your hand-writing?—Yes." When the letters were read, it appeared in the plainest terms that he had taxed himself with ingratitude; and yet this honest man, this soldier of Bonaparte, sheltered himself under the word "say,"—and because he had only written that he was in a distressed situation, he swore that he had never said it.—Would any honest man think, that such a pitiful quibble would avail him under such circumstances? But their Lordships would remember what passed afterwards; for he

now came to a providential accident, if he might use such contradictory terms in compliance with the common understanding of them. He now came to an accident, which he called a Providence in favour of innocence, which was always the care of Providence. Sacchi was asked—"why did you change your name?" and he replied—"on account of the tumult which happened, and which made me know I should run a risk." "When did you change your name?" The answer well deserved observation. "A year ago." When he gave his first reply, he did not recollect that the tumult at Dover took place in 1890, and that he changed his name in July, 1819, before he came to this country. This was a providential circumstance, by which conspiracies were detected, and without which every one of their Lordships might be a victim to-morrow. He called upon the House to give due weight to this observation, and to mark how it was borne out by the evidence in page 459. The Attorney-General, very judiciously seeing its consequences, did not pursue this inquiry; but some of their Lordships continued it: and thus a perfect picture was drawn of a shuffling witness, prevaricating and beating about the bush, to shelter himself from the consequences of an unlucky slip, by which the whole credit of his testimony was overthrown. The confusion, the embarrassment, the perplexity, of Sacchi on this occasion, could not have been forgotten. He was asked at what time he had changed his name? He answered—"Four or five days before I set out for England." "When was that?"—In the month of July, last year. What was your motive for taking that name, at that time, at Paris?—To shelter myself against any inconvenience that might happen. What tumult had taken place at that time, to induce you to change your name? I was warned that the witnesses against the Queen might run some risk, if they were known. Had you been informed that they had actually run any risk? They had not run any risk then." An opportunity was now afforded, of which any honest witness would have availed himself, of explaining the whole fact, for his former question and answer upon this point were read over to him. Sacchi, however, had only involved himself in new difficulties, in endeavouring to escape from those he had already encountered; he stated, that while at Paris, a gentleman came, accompanied by Kreuse, and told him, that it would be necessary for him to change his name, because it would be dangerous for him to come to England in his own. "Did he tell you that any tumult had taken place?" He told me of some tumult, some disorder." "On what occasion did he say that tumult had taken place?"—He told me nothing else." Being further pressed upon this point, he had resorted to the invariable expedient of witnesses, when driven into a corner, by

stating, "I have repeated what that gentleman told me." He (Mr. Brougham) could not deny what Sacchi might have imagined; but he insisted that it was as impossible that any gentleman, known or unknown, could at that period have given him this information, as that any man should, by chance, have written the Iliad. He was afraid that their Lordships did not feel this point with the force it deserved; of course, at the present moment, every body talked of tumults at home, on the arrival of witnesses against the Queen; but going back to July, 1819, when Sacchi first changed his name, what man, in his most fanciful mood, ever dreamt that such a tumult would occur in 1890? In fact, it was nothing more than an invention by the witness, to cover his retreat from a position in which he had been unwarily entrapped. It was only by such circumstances as these that perjuries were detected; and this led him to remark, that if witnesses were convicted of untrue swearing on collateral points, how trivial soever they might be, it put an end to all their credibility in the main facts of the conspiracy. One of these main facts, as far as related to the evidence of Sacchi and Rastelli, another discharged courier, was of a nature so disgusting and offensive, that he felt it difficult even to make the slightest allusion to it. Did their Lordships think it very likely that any woman—he might almost say the most miserable prostitute discharged from Bridewell—would commit, in the face of open day, what had been charged against the Queen by Rastelli? Would they believe, that with the knowledge that a courier was travelling by the side of the carriage, the blinds of which might be raised, the Queen would run the risk of blasting her character, even among the most abandoned of her sex, by going to sleep in the position described by Sacchi as that in which he had discovered the Princess and her chamberlain? But the credulity of the House must be stretched yet many degrees; for if it could persuade itself that this had happened once, it would be nothing to what Sacchi had sworn he had been in the constant habit of seeing, again and again. He (Mr. Brougham) appealed to their Lordships, whether this story had the smallest appearance of probability; whether, unless the parties were absolutely insane, such conduct could be accounted for. He was now saying nothing of the physical impossibility of the thing, at a time when the carriage was travelling at the rate of 9 or 10 miles an hour, over such roads as are found in that part of Italy, with their hands placed across each other, while the parties were both fast asleep, and, of course, without any power over their limbs. To overcome this difficulty would require the evidence of philosophers, who had witnessed an experiment so new and so strange. The witness had not ventured upon any descripti-

out of the carriage, excepting that it had curtains: but what would their Lordships say, if it should be proved to have been an English carriage, with glass and spring blinds? What if he (Mr. Brougham) showed, that the blinds could not be raised without opening the door to get at the springs upon the inside; and still more, what if he should prove that Sacchi was not the courier who went on that journey? He did not say that it was necessary for him to prove this; on the contrary, he denied that he was called upon to do so. Why had not the other side established their case, and if cast-off servants would not afford them a sufficient evidence, why had they not resorted to those still in attendance upon her Majesty? He again entreated their Lordships to remember—for it was a cardinal point, that ought not be forgotten—that an accuser was not relieved from producing sufficient evidence, because good witnesses were to be found on the side of the accused. He had no right to call upon the accused to produce those witnesses; for it was the business of the accuser to establish guilt, by all the evidence he could produce. But was there any other person in the carriage? "*Non mi ricordo*" was the answer of Sacchi, adopting the language of the celebrated Majorchi: and this question was not put to him by surprise, nor was it a point that might have escaped his memory. It was a thing he could not have forgotten: he must have made the observation, whether there was any other person present, while the Queen and her Chamberlain were lying there exposed. In the next place, after a person had witnessed such a scene, was it likely, that from that moment his lips should be hermetically sealed?—that he should never even whisper it to any person?—that he should never dream of confiding it to the willing ear of the gentle, romantic, and sympathetic De Mont? He had long enjoyed a soft intercourse with her both here and abroad! and if he never whispered it to her, it no doubt arose from that extreme delicacy which prevailed between them, to a degree unknown in regions less pure and refined. When the question was put to him, whether he had not related it to any one, he pursued that course which he thought most safe, and best calculated to screen him from contradiction;—"I told it to people," said he, "but I cannot recollect any one to whom I told it." Did not any man perceive, that if such a thing had passed, and he had been an eye witness of it, and had afterwards related it to any one, the witness would not have failed to recollect to whom he had told it? He had now come to De Krantz's story of what happened at Carlsruhe.

EARL GREY here interposed, observing that four o'clock, the hour appointed for adjourning, had arrived, and the Learned Counsel did not appear to have arrived near his conclusion.)

No. 40.

The EARL of LIVERPOOL said, that if an extension of a quarter of an hour would have been sufficient for the conclusion, the House would probably not have objected to proceeding, but that in the present instance did not seem to be the case.

The LORD CHANCELLOR added, that it would be impossible for counsel to do justice to the case if they were limited within any specified time. He thought it much better that the House should adjourn till to-morrow.

Adjourned at four o'clock.

House of Lords.

WEDNESDAY, OCT. 4.

At about 10 o'clock the Bishop of Bristol read prayers, and the house was called over. Several Peers who were absent were excused on account of indisposition.

EXPENSES OF THE PROCEEDINGS.

A gentleman from the Treasury presented copies of all the communications between the Lords of the Treasury and her Majesty's counsel and agents, on the subject of the pecuniary supplies for defraying the charges of the Queen's defence.

These papers were ordered to be laid on the table.

The EARL of DARNLEY said a few words, intimating, as we understood, that he did not consider the accounts now laid on the table satisfactory. They were limited to the supplies granted to defray the Queen's charges, instead of exhibiting the whole expenses of the prosecution. A general account of the whole expenditure ought to be produced.

LORD ERSKINE concurred in opinion with his Noble Friend that an account of the whole expense ought to be laid on the table.

Counsel were then ordered to be called in, and the LORD CHANCELLOR desired Mr. Brougham to proceed with the statement where he had broken off yesterday.

Mr. BROUGHAM then resumed his speech:—He began by expressing his surprise at the description of the witnesses. It was most extraordinary, that with no want of care in getting up the case, and no want of sagacity in its preparation—for great display of skill and management appeared in all its parts—that with boundless resources to bring into play, those who conducted it had chosen to select their testimony almost exclusively from one division of Europe. This was evident on merely reading the names of the witnesses; and it certainly argued a great want of the required talent in other countries, when those who had to look for qualified persons confined themselves so closely to one. Why such unfairness to different states, and such a contrast between the number

from Italy and other countries? The whole of the Italian states appeared to be fully represented by deputies of the lower orders, it was true, or rather of the lowest. But on this side of the Alps he found a lamentable scarcity. From all the cantons of Switzerland only one deputy appears—only one nymph of the whole Helvetic confederation. In like manner, he found that the whole of the circles of Germany were also represented by one person, and that person was a German chambermaid. This was the more remarkable, as her Majesty had travelled through so much of that country. From the capital of Austria no representative appears; and from her Majesty's native country, where she was best known—from that country which had been her abiding place—there was also none; from none of the states of Germany in which her Majesty had resided did any one appear. In short, notwithstanding the great number of towns at which her Majesty stopped in her passage through Germany, only one person had arrived from that country—namely, the amiable Mrs. Barbara Kress, of Carlsruhe. Whether she was to be called a chambermaid, a cellar maid, or a maid of all work, it was not easy to determine, for there was great doubt as to her capacity; but as to her character there could be no doubt whatever. She, however, was the only German witness in support of the bill; and, save and except her Swiss colleague, the worthy Miss De Mont, the only individual not an Italian, whom the gentlemen on the other side had thought fit to bring forward. He begged their pardon, there were two great exceptions; but they were his witnesses, not their's, and he reserved them for the opening of his case. He came now to the consideration of the testimony of this German chambermaid, and here, as on former occasions, he found it necessary to resort to the witness herself for the evidence of her qualifications. Never, except in the case of the Queen, did an anxiety to fabricate evidence give rise to so much contradiction, and so completely defeat itself. This woman had, according to her own statement, been in the reputable and inexperienced situation of chambermaid of a German inn from her earliest years. If their Lordships calculated the time from what she had stated in her deposition, they would find that she was just turned thirteen when she began to perform the duties of a chambermaid. In tracing her biography, it would be found that she states she was then a servant with somebody, whose occupation she shows no disposition to disclose, but who turns out to be a small innkeeper. She had afterwards been in other places, though where it was not easy to discover, from the account she gave of herself; but it was worth while to consider the difficulty thrown in the way of extracting from her any satisfactory account of herself. She relates that she had

been in such and such a place, with Mr. So-and-so, with a Mr. Somebody. Occasionally, when asked in what situation she had been, she answered, a servant. She tried to sink her own occupation as well as the business of her master; but when pressed, it finally turns out that, wherever she was, except for a short while when employed as a laundress at the palace of Baden, she had always been a chambermaid at an inn; and that, however often she changed her place, she never changed her station. But in the progress of her evidence, she threw a little more light on her employment, and the nature of her pretensions. In particular, it appeared in what manner she had been induced to give evidence, and to this he entreated their Lordships' attention, for, if there was a want of witnesses in Germany, it was from no want of agents in that country. And here he must observe, that if there should prove to be any fatal defect in the case, it must be attributed to the witnesses and their testimony, and not to want of diligence in the agents. It would be found, that in Germany the agents had pursued the system regularly acted upon, with the usual activity, and with the command of the usual resources. Whatever mortification he might feel on recollecting that Englishmen had been employed in the odious transactions of the Milan commission, it was some consolation to find that they had not gone the length of the German agents, who had indeed far outstripped his own countrymen in disregard of the means by which they sought to promote the cause in which they were engaged. In Germany, the agents were persons of high distinction. He found, for instance, that Baron Grimm, the Wurtemberg ambassador, the minister of a country, the throne of which had been filled by the Princess Royal of England, had been most active. He found this Baron Grimm associated with a person named Reden, now the Hanoverian minister at Rome, and who had been appointed to succeed the worthy Baron Ompteda in that capacity. This man had treated the Queen-consort of England, who, besides, with his Queen as much as she was their Lordships', in such a manner as rendered it impossible for her Majesty to continue in the same place in which he resided, consistently with the respect due to her character. This Reden, Baron Grimm, and another person, with a long name, in the service of the Grand Duke, had been active and unscrupulous agents in the proceedings to which their Lordships' attention was called. The worthy Baron had not scrupled to throw far from him all those feelings of decorum which were becoming in private life. It was, however, possible that, in the conduct of diplomacy, a minister might think himself justified for acts which no other individual would commit; that it might be thought allowable in a minister to do that which would disgrace a private man; that things might honour him which

would still demand to be in private life; that he might obtain the favour of his employers, and what he called honours, for actions which, had he not been a diplomatic agent, would have called down upon him infamy and dishonour. These men certainly acted as if they had felt in the manner he described; as if they thought that in their character as diplomats they were men bound to do all things needful, and to whom all things were equally good. When Baron Grimm heard that the Queen was coming to Karlsruhe, he was living there in apartments which he had previously hired. On her Majesty's arrival he artfully gave them up. To accommodate her Majesty he kindly left his residence, and sought other lodgings. He changed his apartments for worse; courteously, but yet insidiously, resigning those in which he had lived, to her Majesty. What would their Lordships think of the Baron's politeness, when they found that the very moment the Queen left the apartments, he eagerly returned in pursuit of the secret business in which he was engaged? As soon as her Majesty departed, he and another agent, whose name was also mentioned by the witness, were seen, as Barbara Kress says, "running up and down the rooms," prying into every corner, looking carefully at the furniture, and examining the beds, and performing all the degrading offices which he thought would please his employers, but which they would doubtless despise. Such was the conduct of these men, who demeaned themselves without scruple to the lowest offices. But, active as the Baron had been, regardless as he had been of his own dignity in the transactions in which he had been engaged, he had not consented to become a witness. He did not show the same boldness in facing their Lordships as he had shown readiness in committing acts elsewhere which called down reprobation on his conduct. Here, however, the Baron was not forthcoming—here, where, if Barbara Kress spoke truth, he would have been a most important witness: for, having entered her Majesty's apartment the moment she left, he must have been able to corroborate the story told by Kress, respecting the state of the bed, if she had stated the truth. The Baron was, however, absent, and the only witness that could be found to speak to this extraordinary fact was the German chambermaid. On looking at the evidence of this woman, some estimate might be formed of her motives for coming over to this country. She swears that she came to England from compulsion; but, on turning to the next page, it would be found that she was to be paid; or, in other words, to have a compensation for her loss of time. But she repeated only what had been put into her mouth; she had made no terms—had entered into no bargain, express or implied. She looked to no payment for the evidence she was to give. This was her first story; but it afterwards came

out that she had got a little payment, and the liberality with which it had been bestowed was reluctantly wrung from her. Their Lordships would find the part of her examination he alluded to in page 193 of the printed minutes. She was asked if ever she had been examined before, and she answered she had, at Hanover. The examination then ran thus:—

What did you get for going to Hanover?—I received a small payment just for the time I had lost.

How much was that small payment?—I cannot exactly tell; it was little, very little.

Thus, because the remuneration was so little, she could not recollect it. Being so little, it might have been the more easily recollected; but it subsequently appeared that it was not because the reward was little, but because it was great, that she forgot it. What would their Lordships think if it was found to be five times greater, ten times greater, than her ordinary wages at the inn? What if it doubled her whole yearly wages at the inn, perquisites and all? When such was the amount of the sum, would any person of common understanding place confidence in her testimony? Was she to be trusted in her statement of facts, who could not recollect receiving for a trip to Hanover and back again to Karlsruhe, which occupied only a fortnight, double what she could earn in a year—who, under such circumstances, said she could not recollect what she had received, because it was so little? Would any man place reliance on any story coming from such a source? She also positively asserted that she expected no reward. But it was surely enough to make that part of her evidence be pronounced false, to know that she must have expected a reward in future from her experience of the liberality of the past. The same equivocating manner followed her through her whole story. The way in which she described herself to have left one particular scene which she professed to have witnessed—her alleged message to the room of the Countess Oldi—her alleged care in convincing herself that the woman she saw was the Princess, when, if her dearest had been in the room of the Countess; she would have had no excuse for going into the other room so to convince herself—her assistance in answering the question that it was certainly the Princess, whom she saw, when there were other women in the house, though Barbara Kress was the only one thought worthy to be brought here—all these things proved that she was not satisfied with herself until she was convinced that she had fulfilled the duties of a witness faithful to the interests of her employers. He had mentioned to their Lordships that, to support the Carlsruhe case, Grimm had not appeared here; but there were many others of the Queen's suite who might have been called, and whose absence argued strongly against the truth of her story.

It was plain, from the manner in which Barbara Kress had given her evidence, and from the evidence itself, that she was not satisfied that the woman she saw with Bergami was the Queen. He must now again beg their Lordships to re-cross the Alps with him, and, having dismissed the testimony of the principal performers, there remained little to do; the rest were mere make-weights, thrown in to give colour and consistency to the fanciful picture, and to all of whom the same general observations which he had yesterday submitted to their Lordships on the nature of the whole testimony, applied. Nothing was more remarkable than the general character and appearance of the witnesses. Their employments were generally of the lowest description, and, after all the pains which had been taken to give them a respectable appearance by new clothing, the total failure of these endeavours must have struck every one of their Lordships. Two of those witnesses were sailors, and he wished to remind their Lordships of these men's evidence. The facts to which they swore were of a nature which it was impossible to credit. Could it be supposed that the scenes they described could have been attended with such publicity? It was impossible to conceive that any individuals possessing ordinary common sense would have voluntarily exposed themselves to the observation of 11 or 12 persons in the way these witnesses had sworn. And were witnesses to be believed who swore that, after seeing such extraordinary things, they never mentioned them? These assertions had almost rendered cross-examination unnecessary. One was asked if he ever spoke of what he had seen?—"Yes, once. Where?—At Milan, to the Commissioners. Did you never mention it before?—Never." It was the same with all the rest. When Rastelli swore to scenes too disgusting to be detailed—when he swore to abominations having taken place in the face of day which could not be described, and that, too, in a situation so unsheltered that it was impossible for him to turn his head without seeing them—he, like all the rest of the witnesses to these abominations, as if the relation between cause and effect in this singular case was wholly suspended, had never opened his mouth on the subject; his lips had been hermetically sealed till he was called on by the commission at Milan. Through ten long months that witness was silent. Was he a hermit all this time? Was he living the life of a recluse? Was there no mortal ear in which he could mention it? Was there no man, woman, or child, to whom he could whisper it? To the latter, perhaps he might not be expected to mention it; but had he no friend, no brother, no mistress, no common passenger, to whom he could mention it on the lake? Was it to be believed that no communication of such a scene would have been made, had it been true? He would show, by evidence, that the boatmen of the lake

had been induced to tell stories, which they admitted had no foundation in truth, in consequence of the rewards they received from passengers. Was it credible, then, that Rastelli would have been so reserved if he had had any thing to tell? Was there one even among their Lordships, whose lips were schooled to enact the courtier even when no court was present, who would not have repeated it to some one or the other? He professed he knew not even a private gentleman who, being under no obligation to conceal it, who, not being under the seal of secrecy, would not have made wiser those persons whom he might next have chanced to converse withal. Yet these low persons, so different from the upper ranks, are so discreet, are so much more upon their guard, feel themselves living among persons of so much purity, that the mention of such facts would have crimsoned their cheeks with the glow of offended delicacy. They never mentioned a syllable of what they had seen to any living being. Was this probable? Was it to be believed? The Princess was described to have been seen kissing Bergami in a boat on the Lake of Como, as often as the wind blew on it. She was seen riding in a carriage in a situation which could not be mentioned without a blush. The facts witnessed were so striking, so unheard of, so frightful, so portentous, that, if really seen, it was impossible for the beholder to remain silent a single day. But days, weeks, and months passed away, and nothing was said on the subject till the parties were called before the Milan commission. It was then, for the first time, that the lips of these persons were unsealed. But he would not admit that they concealed these extraordinary things for weeks, days, or even hours. He believed they had concealed it from the time when it first crossed their imaginations to act the part they had performed, from the time of their hearing that others had been liberally paid for slanders, and, resolving to imitate their example, until they repaired to Milan; but the concealment was no longer than the journey demanded to the place where they expected to obtain the reward of their perjury. In all this their Lordships would perceive there was no variety. There was, in this respect a general sameness in the conduct of these witnesses. In other respects there were differences which it might not be improper to notice. Did their Lordships recollect the waiter from Trieste, Puchi? But they could not forget his aspect, if they had his name. Did they not recollect that physiognomy—the never-to-be-forgotten expression of that face—those eyes—that nose—that lecherous mouth, with which the wretch stood there to repeat the falsehoods, the wicked suggestions of his own filthy imagination, to which he had sworn at Milan? Would they not for ever remember that hoary pander from Trieste—the manner in which he told his story—the haggard look

which gave him the appearance of an inhabitant of the infernal regions, and which must have reminded their Lordships of the great Italian poet's description of a broad-faced tailor in Hell peeping and grinning through the eye of a needle? But the testimony of that wretch would be contradicted. He, at all events, should be punished. There were also others that could be reached, but that man certainly should not escape. It would be shown, by evidence above all suspicion, that he had sworn to falsehoods. It would be proved, from the nature of the room and the situation of the door, that what that man had so solemnly asserted could not be true. Taking even his own account of the room, it would be shown that his story must be false. It could be proved that the Queen slept only one night in a year at Trieste; that, on the evening she arrived there, she went to the Opera as that witness had stated, which was the only instance in which he had spoken truth. Her Majesty left the place next day, and never returned, so that she had only once in her life crossed the gates of Trieste. He would now dismiss those witnesses without further observation. He had shown them by sample, and the sample was sufficient to satisfy their Lordships of the quality of the remaining part of the filthy cargo. Then came the truly foolish stories of a picture, and of chamber ornaments, introduced for the obvious purpose of varying, and adding some little diversity of decoration to, a wearisome and thrice-old tale. Whether *Iachimo* was the original offspring of our great Shakespeare's mind or not, their Lordships would readily recognise more than one of the witnesses, but one especially, as the own brother of *Iachimo*. How had he represented himself when most deeply engaged in contrivances against the honour of "a Princess of this fair isle?"—

"Away to Britain

"Post I in this design: well may you, Sir,

"Remember me at Court; being there
quench'd

"Of hope, not longing, mine Italian brain

"Can in your duller Britain operate

"Most vilely for my 'vantage, excellent,

"And I did wound belief in her renown

"With tokens, thus and thus; averring
notes

"Of chamber-hangings, pictures, this her
bracelet;

"And, to be brief, my practice so prevailed,

"That I returned with similar proof enough

"To make the noble Leonatus mad."

An endeavour has been made here, as then to substantiate two different cases by similar marks and tokens. Having thus disposed of evidence that ill deserved so much of their Lordships' attention—having commented within narrower limits than he should have assigned under other circumstances to his

observations on such a tale, he had to solicit their attention to one or two other of the more remarkable features of this evidence.—He should indeed be guilty of a gross abandonment of his duty if he did not claim, in a question of this kind, those advantages for his illustrious client which would be yielded as a matter of right to any other individual.—This was not indeed a regular bill of indictment; it was a charge thrown into the shape of a bill of pains and penalties, and it was on that account that he conceived himself to be justified in requiring evidence of the most indisputable character. Now then for a closer investigation of the nature and character of that evidence. The Neapolitan scene was, he apprehended, the first to which the testimony of any witness called for the prosecution applied itself. Here, at least, the offence was supposed to have been brought to its completion—here it was represented that after a courtship of about one fortnight, the last guilt had been incurred. Here was the story of a Princess, of life previously impeached, of character raised, brightened, and purified, by a former investigation, described as all at once sinking into an abyss of shame and infamy. If there were truth in evidence, or benefit in acquittal—if certainty or conviction were to be derived from repeated inquiries—the previous conduct of her Majesty stood fair in the eyes of the whole world. It had undergone two solemn examinations; it had come forth so pure from the ordeal, that when one set of ministers advised a censure upon what they called "certain levities," their successors, dissatisfied with that advice, recommended the expunging of the censure, and her public reception at court by her uncle and father, as a person adorned by every virtue and accomplishment that could add grace or dignity to royal life. This, he would also beg leave to remark, was a recommendation sanctioned by some persons who were now thought to be by no means unfavourable to the present bill. According to the statement now produced, her Majesty had indeed observed the most correct demeanour up to a certain period of her residence in Italy. She at length, however, hired a servant, of whom he should afterwards have something to say. With this servant she was represented as travelling to Naples, where her degradation was complete. Here, according to the story told on the other side, did this illustrious matron, "this fair Princess of our Isle," roundly end to become the favoured mistress of a menial lover. Here did she engage in scenes and acts that never yet marked the conduct of any woman who had not been long sunk in a course of profligacy. He doubted, indeed, whether any course of profligacy could so inure the human mind to shame, so steel it against the common apprehensions of discovery, as to lead to the rest exhibitions which had been so minutely recorded at their Lordships' bar. How could

they were able to conduct, or in accordance with any of the known principles of human action? how were they to believe the romantic tale of a Princess resorting to the bed of her menial servant, quitting her own room in the middle of the night, and shaping her course to her paramour, not by the way through which she might have passed without observation, but through a room where it was next to impossible that she would not be exposed to the gaze of another menial servant? It was in evidence that she might have found a different way to her supposed destination—namely, by ascending the corridor—and have so escaped the observation of any human eye. He would then invite the attention of their Lordships to another most important circumstance. What were the preparations for this indulgence in guilty joy? What was the scene of these early loves? All concealment was described as having been laid aside, and the parties also described as acting under the influence of a violent and dominating passion. It did, however, happen, that the bed on which Bergami was resting, and to which the Princess so repaired on the second night after her arrival at Naples, was a travelling-bed, a couch framed on an iron bedstead and intended for use only on occasions of travelling. In every other room of the house, in the apartment itself of her Royal Highness, there was provided an easy, a comfortable place of repose. Her Royal Highness's bed was nevertheless left untouched. To be sure, M. De Mont had watered a little on this subject in her cross-examination by his Learned Friend, Mr. Williams, as compared with the leading examination (and he meant no personal offence) of the Solicitor-General. She did not seem to be in perfect harmony with his Learned Friend, who did conduct his operations in such a way as to lead to some slight alteration, and to induce the lady on the third day to admit that her recollection was a little amended. She at length, in answer to certain questions, gave rather a different complexion to the story from that which Signor Majocchi had invested it. In the first instance, the chambermaid related that the Princess's bed did not appear in any great disorder, or to have been much troubled on that occasion. Their Lordships were subsequently informed by her, that the bed did appear to be impressed in the centre by the figures of two persons, and that there were certain stains. Now he would put it to any man, whether it was likely that, if such facts were truly within her recollection, they would not have appeared on the examination in chief; whether they would have been left either to the ingenious mode of detection adopted by his Learned Friend, or to the general inquiry of their Lordships? But the Queen was also represented as having been previously in a state of considerable agitation, and as having, for the first time, stopped the

admission of Billy Austin to her bedchamber. He would show to them, however, that her Majesty was at the Opera that night, and that Billy Austin had long possessed his separate chamber, although never excluded from that of his royal benefactress. He was accustomed to enter it whenever he pleased—it was open, it was accessible to him on the evening in question. The whole of De Mont's evidence was plainly intended to support the fact of positive adultery—to persuade their Lordships of a really criminal intercourse having taken place. There was something very remarkable in that passage of her statement which referred to the appearance of certain stains on the coverlet of the Princess's bed. It was scarcely uncharitable to suppose that she well understood tokens of that description, that her memory was disciplined so as to add her invention when taxed on such a subject; because one unskilled in that kind of learning would not have so carefully noted the circumstance; it would indeed, in that case, have escaped her attention as the idle wind that blew over her head. The next important scene was one to which the same witness was equally particular in her deposition, refusing only to commit herself to dates. She, whose recollection was so wonderfully accurate as to all other matters, did not feel quite confident in this respect. The circumstances, indeed, divested of their relation to time, were stated positively enough. They had Bergami naked in the corridor, without stockings, or even a morning gown, there meeting the chambermaid, not retiring at her approach, nor she at his, but pursuing his course with a steadiness of pace, and a firmness of composure, with which few wedded men sought their legitimate and bridal couch. So extraordinary a statement could not easily be obliterated from the recollection of their Lordships. In referring them to page 251 of the printed evidence he did but remind them of what they had not possibly forgotten. If they passed on to the occurrences at Catania, they must also be struck with some surprise, that when it was open to the Attorney-General to call two witnesses to the same fact, he should have contented himself with one. "Two servant-maids," said he, "were sitting in the room next to that of Bergami; both saw the Princess come from Bergami's room at an early hour, and they heard a child cry in that of the Countess Oldi;" in other words, both knew and had watched all that took place. How, then, did it happen that only one of these individuals was called by the Attorney-General? No intimation was given that they had ever communicated together, or that the falsehood was of joint production. One only was called, and what was the amount of her narrative, admitting for a moment all its multiplied improbabilities? Bergami slept in a room not adjoining to, or communicating with, the Princess's apartment, separated

from it by a court which formed the centre of the building. This was the case whilst he was in good health: but he became sick—he was visited by a severe fever. It was then that he was brought from the room which he had previously occupied, to that of the Countess Oldi. Singular scene for carrying on an amour—singular occasion for the exchange of mutual endearments! It was not when he was in health; but when he was sick, when he lay more as a patient than a lover, that her Royal Highness was described as bending amorously over his couch. To him it appeared difficult to conceive an opportunity worse selected for the accomplishment of the supposed end—circumstances or a scene so perfectly embarrassing. Under the arrangement as set forth in this evidence, the Princess was obliged to pass during the night by the room of her two servant women, in order to reach that of Bergami. A woman of ordinary prudence, having a similar object in view, and in possession of the means of altering the occupation of the different rooms, would have selected apartments contiguous to each other. By disposing of them differently, the servants might have been removed to a greater distance, and the intercourse between the Princess and Bergami might have been carried on without interruption or discovery. With a very little foresight those servants might have been kept from approaching the threshold of these chambers. But, if they were to believe the representations made to them, her Majesty had been all along engaged in a conspiracy against her own happiness, comfort, honour, and existence. It had been the uniform tendency of her tactics to multiply damning proofs against her own character. She had studiously consulted, courted, her own ruin. But he had been told that he might contradict this testimony by producing Marietta De Mont. She, he was told, might possibly show that it was a foolish and incredible tale to describe her Royal Highness as never doing one single act that had not a direct tendency to injure her own interests, and tarnish her own reputation. He would, however, contend confidently, though with all humility before their Lordships, that it was incumbent on those who instituted this prosecution to have led that witness to the bar. She was, according to every rule of judicial inquiry, their witness. There was no Judge who would dispense with her evidence on any criminal proceeding. Here the exigency of decisive, conclusive, incontrovertible proof, was greater than upon any criminal prosecution conducted by the forms of law. To support a bill of Pains and Penalties, every ordinary rule, every principle of judicature, became more important. They who were placed in the situation of defendants by a measure of that kind, had to complain, not of accusation, but of oppression. If justice reigned in that place, the

obligation of producing Marietta, and of opposing her testimony to that of her sister, could not be cast on the defence. No such proceeding would be admitted in any case affecting life or limb. But their Lordships put, for a moment, the case of a civil suit, of an action of debt, and remark how clearly the law distinguished between the trials of questions relating to property, and those which imposed penal consequences. It would not be necessary for him in establishing his claim of debt, to call the clerk or servant of his adversary; but, if he charged a criminal offence, he was bound to produce the very best evidence of which the question would admit. Even though connected with the adverse party, no individual possessing knowledge of the subject-matter could be dispensed with, if there was any practicable mode of obtaining his testimony. Suppose the trial of a highway robbery: their Lordships well knew that the account given of the transaction by a Bow-street officer, perhaps paying for his reward, would not be deemed sufficient. Neither would the evidence suffice of an accomplice tainted by his own confession, or of a spy degraded by his vocation. On the contrary—if the party's own friend, acquaintance, servant, or any person other than his wife, had witnessed the facts stated on the record, that individual must be called for the prosecution. He would venture to assert that no English Judge would suffer any man to be placed in jeopardy of his life without this precaution. The prosecutor was bound to call every sort of unsuspicious evidence that was accessible to him. No person in the character of a defendant ought to be required to produce the relations of the witnesses against him. It was a fundamental principle of English law, as well as the obvious dictate of common sense, that every one should be presumed innocent till guilt was fairly proved. Their Lordships could not fail to perceive that her Majesty was in a most singular situation. After all that she had suffered and passed through, it was impossible that she should not open her mind to some construction of the motives by which those about her were actuated. It would not be surprising if in some instances she formed an uncharitable judgment. The long period during which her oppressions had continued, the manner in which she had been so often surrounded and betrayed, the hidden artificer scattered beneath her feet, might have naturally awakened in her mind suspicion and distrust of all who approached her. After fostering those who now attacked her, after her experience of the Ompteds, the Grimms, the Retiens, and, above all, after this new process, it would be extraordinary if suspicions did not find their way into an otherwise unsuspecting heart. It was not easy for her to distinguish between enemies and friends; it was possible that she

might even now be cherishing another viper. The case was, however, left short by the Attorney-General; and, on her Majesty's behalf, they were driven to the necessity of supplying its defects. Her Majesty had all along corresponded with Marietta, with the sister of De Mont; she knew nothing to the prejudice of her character; and, let the result be what it might, Marietta would be presented at their Lordship's bar. He would not say that this was prudent; he knew it was not essential to the defence. It had been said, too, by a great authority—by him “who fulminated over Greece” in words of fire, that “the best security of a feeble heart was not to be found in any outworks, or ramparts, or safeguards raised by the hand of man against the fraudulent or the powerful, but in mistrust; and that this was a feeling implanted by Nature herself, for the preservation of innocence.” Against agents and spies so unscrupulous as the Omptedas, the De Monts, and the Sacchis, some degree of circumspection was most needful. Their Lordships would likewise admit that there was no obligation on their part to bring forward the testimony to which he was alluding. Had the professional advice of himself and his Learned Friends been called for, they might, perchance have felt it to be their duty to awaken suspicions where none at present existed. Her Majesty, however, had seen no reason to doubt the motives or character of a faithful servant, and this servant would therefore be produced. It was at the same time manifestly gratuitous on the part of her Majesty; it was an act that could only proceed from conscious innocence. He would now draw their attention shortly to the transactions at Charnitz. Incredible as they were, he should have passed them over in silence, had they not appeared to make a transient impression on the minds of some amongst their Lordships. De Mont had sworn that the whole night subsequent to Bergami's bringing the passport was passed by him in her Royal Highness's chamber. This was false—he should disprove the whole representation, and show that she commenced her journey within an hour and a half after the arrival of the passport; that this time was indeed, scarcely sufficient to pack up, and mature the preparations. She lay reclining on her bed, in a travelling dress, and with the room door open, during this whole period. So at Carlsruhe she would be shown at a music party, and proved to have supped at the Margravine's, whilst Bergami was at home ill, with his sister and child, on the very evening which they were represented to have passed together. Some were so very inattentive to the nature of conspiracies, and the characters that marked the most artful and deliberate falsehoods, as to suffer doubts to cross their acute and ingenious minds, arising from the very inadequacy of the evidence. If, they

said, it were a plot, it would have proved the whole charge; if the evidence were fabricated, it ought to have convinced all mankind; if it were all the inventions of conspirators, it must have been so full and complete as to leave no part unsupported; but here things were proved, and omissions made which were utterly inconsistent with a plot. Could those acute and ingenious persons forget that there were two things to be attended to in getting up plots and conspiracies—one of which was common to all conspiracies—and the other of which was uniformly observed in this case. The first was, that the witnesses should not swear too hard, that they should not prove too much, but that they should speak to facts and circumstances founded in nature and consistent with experience; and the second thing was, to take most especial care not to call two witnesses to the same point. These witnesses, sure to be exposed to no contradiction, because none were to be called to the same facts, were to state their several stories as moderately as possible. The architects of this structure had been most careful to observe the rule of calling any one witness to each circumstance. If this care had not directed their course, why had only one witness been called to the scene at Naples? Why had not two witnesses been called to this most material part of the case? Why, but because it was dangerous to call more than one? So it was with every part of the case—one witness was called to the fact, and one to confirmation. The one was to tell truth, and the other falsehood. One was to tell a falsehood which would bear upon the charge brought forward, and without which the truth could be no avail. Another told an unessential truth to give confirmation to the falsehood. At Naples his Learned Friend had opened what, if it were not invented and fabricated, ought to have been proved by a cloud of witnesses. When at a masquerade, the Princess of Wales, even although in a mask, must have been known, and the circumstance alleged to have been observed, if true, must have become at once public. But the events of that masquerade, like the fictions of this plot, lived only from night till morning. If the story told were true, it would have been widely circulated; all the gossips would be full of it, and could talk of nothing else:—

*Et otiosa credidit Neapolis,
Et omne vicinum oppidum.*

Yet to this only one witness had been called. Why had no witness been called to speak to the beds;—why none to speak to the linens? What became of Annette Triessen? He was able to tell their Lordships. She was now in this country. Why had she not been called?—Because she was not an Italian. She could have given the most essential evidence if there were any truth in the statements opened to their Lordships; she could have

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very insufficiency of the evidence. At the same time, the court, after

spoken to the passages in the rooms mentioned. Could she have spoken to the beds?—She made them. To the linens?—She had the care of them. Who washed the linens?—The washerwoman might be an Italian, for aught he knew. The Learned Gentlemen on the other side knew well the importance of a washerwoman's evidence; they had seen by experience the effect of it, in proving charges like the present. They knew the effect of it by experience of its importance in the Douglas plot. They knew by experience that, if such a witness could have stood a cross-examination, this plot could not have failed. Was he to be told this was not a case of adultery? Why, what meant the evidence offered, if it was not a proof of adultery? He needed to say no more to prove that the whole case failed; for their Lordships ought not to compel him to refute a case brought forward and supported as this was. But, if they believed the evidence, it was as clear a case of adultery as had ever been known in Westminster-hall. If they believed De Mont—if they believed Majocchi—if they believed Sacchi, they could have no doubt of the adultery having been committed. If they believed Sacchi, when he said that he had seen Bergami twice going to the bedroom of the Princess of Wales and remaining there, they could not doubt that adultery had been there committed. If this was true, then the Queen was worse than Messalina, or as bad as Marie Antoinette was represented to be when the Jacobins of Paris covered themselves, even themselves, with complete infamy, by the charges against their Queen.—Another remark he had often heard made upon the case against her Majesty, and the observations offered in reply to that case:—"O," said some acute sisters of evidence, "O, you have damaged the witness only by proving falsehoods in unimportant particulars." This remark could not come from law Lords, who could not fail to see how ridiculous such an objection must always be. He granted, indeed, that if the object were to confirm an informer, the confirmation must extend to important parts of his testimony: and a confirmation as to some slight circumstance would deserve no weight. But it was quite the reverse in pulling down a perjured witness, or a witness swearing falsely. If that witness's testimony was false in the least particular, that falsehood destroyed the whole credit of the testimony. Could it be said that they ought to believe part, and to disbelieve part, of a witness's testimony? He would admit, indeed, that there might be parts which the witness of truth might be ignorant of, or which he might have forgotten; and that by separating mere mistakes of ignorance or forgetfulness, and culling the parts that were sworn to from knowledge and correct recollection, they might obtain evidence to be relied on. But if a witness swore not

only what was not true and not correct, but had falsely sworn what could not be true—if a witness swore to his own invention—if he swore, to use plain language, a lie, in any particular, however unimportant—good God! what character was safe? What escape remained for the purest innocence from the toils of an enemy, or the fabrications of a conspirator, if they believed one word of such a witness's testimony, and separated the lie from the other part which rested on the credit of him who fabricated the lie? What person could be safe from merenary and spiteful villains? One of their Lordships might be charged with a crime that nature abhorred—a crime of the greatest horror to his mind, and the greater in proportion as his mind was alien from the very thought, and his feelings alive to the infamy of the bare supposition. The best and most distinguished of their Lordships might to-morrow be placed in the situation of one so charged, and must be convicted if a perjured scoundrel was to be believed upon such a principle of selection and separation of evidence. If one of their Lordships were so charged with a crime which in this country was held in such abhorrence, that even the charge, contrary to strict justice, destroyed reputation before trial, he must forfeit his reputation if the charge should be supported as it might be, and the principal part of the testimony were believed. No perjury could be detected in the principal circumstances. All the skill and experience of the ablest counsel might attempt such detection in vain. The accuser had only to take care that only one person should speak to the chief part, to choose his time, and to select his place.—Where contradiction could not be offered, by choosing the time and selecting the place where one of their Lordships might have been, refutation would be rendered impossible, perjury unlikely. But before any court the accused would be acquitted, if the villain told a clear unimpeachable story of the principal circumstances, and yet told the least falsehood on the most unimportant particular. He asked, then for the Queen, no other justice; he desired for her Majesty no other security but that which their Lordships would require, and be entitled to, before any other court. He was told their Lordships would be aware that the situation which Bergami originally occupied in the service of her Majesty, compared to the sphere in which he afterwards moved, was of itself matter of suspicion. He need not tell their Lordships that such promotion was neither uncommon nor suspicious in itself; indeed, there was nothing more common than showing favor to meritorious service, by promoting the servant to higher offices. It would not be said that every man ought to be confined and chained to the lowest lot in which he happened at any time to find him-

self. God forbid that we should live to see the time when all situations in this country, except the highest, were not open to all.—But, if promotion, in the present instance, could be objected to, objections could be made to all promotions. At the same time the rapidity of Bergami's promotion was greatly overstated; and, in the manner in which it took place, afforded a convincing proof that the story of love having been the cause was utterly false. Let them believe Majocchi and De Mont, and three weeks after Bergami entered her Majesty's service, he was admitted to her bed.—But how did he board? He continued in the situation of courier; he dined with the servants, and not even with the chamberlain. At Genoa it was proved that he had not dined with her Majesty. But suppose he had sat at the table, still he continued a courier; and it was only on the eve of the long journey which her Majesty took, and during the familiarity of a journey to Mont St. Gothard, that he was promoted; and then he was only promoted to travel in a chaise, which he occupied alone, instead of riding on horseback. Then he was at last promoted to sit at her Majesty's table. This was sufficient to show the utter falsehood and absurdity of the case attempted to be set up. The amorous, imprudent, insane Queen—for so her Majesty was described—was entirely subdued by her passion for a person who exercised all this power, for weeks, and months, and years, in a mental capacity! This was not the rapidity and haste with which Love promoted his favourite votaries. It much more resembled the slow progress with which merit rose in this world. So much for the manner in which Bergami was promoted. But Bergami had not risen from the low origin which had been described. His father had been in the situation of a proprietor of moderate income in the north of Italy, and had got into difficulties, as many gentlemen in that part of the country had then done. The son sold the property to pay his father's debts, and thus became reduced; but still he was a reduced gentleman. At General Pino's he was received as such, and recognised as such. He dined at General Pino's table while he was a courier; he dined at his table in the Spanish campaign. He associated with gentlemen, and he was esteemed by all with whom he associated. An Austrian Nobleman in Milan proposed him as a courier to the Queen's Chamberlain, and he was hired by the Chamberlain without the knowledge of her Majesty. The Austria Nobleman had fairly confessed that he expected Bergami would be promoted, because he had formerly seen better days, and he was of an honourable mind, and his ideas belonged to his former rather than to his latter days. Bergami was, indeed, employed first as a courier, and necessarily so employ-

ed before he could be promoted to be her Majesty's Chamberlain. He mentioned this, not as essential, for he conceived he had already disposed of the case, and proved that there was not one single fact before them upon good and credible testimony; but he mentioned this, because the conduct of the Queen had been scrutinized, to show that no impropriety existed where guilt was charged. If the Queen had lowered her dignities, and had fallen into impropriety if not guilt; but of guilt there was none; impropriety there was none; unworthiness there was none. If there had been guilt, impropriety, or unworthiness, he would have appealed to what always supported the good in the hour of trial—he would have appealed to her Majesty's former course of life. There was not a person among their Lordships who would not hear the testimony that he could offer with the utmost respect. From the most powerful of all who had had means of knowing her Majesty's former course of life, from our late revered Sovereign, he held in his hand a testimonial which could not be read without sorrow. It was a melancholy proof of her Majesty's conduct—melancholy, because he who gave it was no longer among us; but it was a proof given by him who knew her better than any, and who loved her better than the rest of his family; although there was in the family one on whose love and affection she had stronger claims. It was painful to perceive the sense which his late Majesty entertained of the conduct of others towards his daughter-in-law and niece. The letter to which he alluded he begged leave to read.

Windsor Castle, Nov. 13, 1801.

"My dearest Daughter in-law and Niece.—Yesterday I and the rest of my family had an interview with the Prince of Wales at Kew; care was taken on all sides to avoid all subjects of altercation or explanation; consequently the conversation was neither instructive nor entertaining; but it leaves the Prince of Wales in a situation to shew whether his desire to return to his family is only verbal or real, (the difference between verbal and real was a difference George III. never knew), which time alone can shew. I am not idle in my endeavours to make inquiries that may enable me to communicate some plan for the advantage of the dear child for whom you and I with so much reason must interest ourselves; and its effecting my having the happiness of living with you is no small incentive to my forming some idea on the subject; but you may depend upon their not being decided upon without your thorough and cordial concurrence; for your authority, as mother, it is my object to support. Believe me at all times, my dearest daughter-in-law and niece, your most affectionate father-in-law and uncle."

"GEORGE R."

This was the opinion of that good man, of a man not ignorant of life, and no mean judge of human character, of the fitness of her Majesty for the care of his grand-daughter. He might now read another letter, from the illustrious successor of George III.; it was not written in the same tone, it was not indicative of the same regret and confidence—it was not indicative of the same regret, but it was by no means indicative of the want of confidence, or of a wish to impose trammels on her to whom it was addressed. But this letter was known to their Lordships. It expressed, indeed, a desire to live separate, and it contained a plain indication that her conduct, at least, would not be watched with the rigorous vigilance of scrutinizing agency on which this case was founded.—(“Read, read.”) The Learned Counsel here read the letter:—

“Windsor Castle, April 30, 1796.

“MADAM,—As Lord Cholmondeley informs me that you wish I would define, in writing, the terms upon which we are to live, I shall endeavour to explain myself upon that head with as much clearness and with as much propriety as the nature of the subject will admit. Our inclinations are not in our power, nor should either of us be held answerable to the other, because nature has not made us suitable to each other. Tranquillity and comfortable society are however in our power; let our intercourse, therefore be restricted to that, and I will distinctly subscribe to the condition which you required (a condition which she never required nor even alluded to) through Lady Cholmondeley, that even in the event of any accident happening to my daughter, which I trust Providence in its mercy will avert, I shall not infringe the terms of the restriction by proposing at any period a connection of a more particular nature. I shall now finally close this disagreeable correspondence, trusting that, as we have completely explained ourselves to each other, the rest of our lives will be passed in uninterrupted tranquillity.

“I am, Madam, with great truth,

very sincerely yours,

(Signed)

GEORGE P.”

He (Mr. Brougham) did not term this, as it had been termed, a letter of license. That was a term applied to it by those who, unhappily for her Majesty, were now no more. But it could not fail to be matter of wonder to those who read this letter that her Majesty had been watched with so much rigour—with a rigour that increased as the parties advanced in life—that she should have been beset with such unconstitutional, unsparing, and most malignant watching and espionage. Such, then, was the case before their Lordships. He begged again to call their attention, at the risk of fatiguing by repetition, to the two grand points of defence which he hoped their Lordships would never dismiss

from their minds:—first, that the case was not confirmed by witnesses, for neglecting to call whom there was no pretence whatever; the second point was, that every one witness that had been called was injured in credit.—How, but by these two tests could plots be discovered? Plots were often discovered by the second, when the first failed. When persons in respectable stations in life, previously of unimpeached characters, were got to give evidence in support of fraud and falsehood, the innocent must despair; escape became impossible, unless the plot appeared through the evidence—unless the testimony of the witnesses broke down under them—unless some points, entirely neglected, or incautiously secured, exposed the whole fabrication to ruin and destruction. Their Lordships would recollect an illustration of this which was to be found in a great passage in the sacred volume. He called it a great passage, because it was full of instruction, because it was just, because it was eloquent. The two judges were prepared with evidence fitted to their object, and well arranged. They hardened their hearts, that the look of their innocent victim towards heaven could not divert them from doing the purposes of unjust judgment, or from giving a clear consistent story. But their falsehood was detected, and their victim was saved, by the little circumstance of a mastick-tree.—This was a case applicable to all conspiracies and plots. This little circumstance was of the unessential, but decisive kind, which the providence of Heaven made use of to detect perjury. Such were De Mont's letters; such Majocchi's banker's clerk. Those circumstances were not important to the body of the case, but they were important to the body of credit belonging to it. “Such, my Lords, (Mr. Brougham continued,) is the case now before you, and such is the evidence by which it is attempted to be upheld. It is evidence—adequate, to prove any proposition; impotent, to deprive the lowest subject of any civil right; ridiculous, to establish the least offence; scandalous, to support a charge of the highest nature; monstrous, to ruin the honour of the Queen of England. What shall I say of it, then, as evidence to support a judicial act of legislature, an *ex post facto* law? My lords, I call upon you to pause.—You stand on the brink of a precipice. If your judgment shall go out against your Queen, it will be the only act that ever went out without effecting its purpose, it will return to you upon your own heads. Save the country, save yourselves. Rescue the country, save the people, of whom you are the ornaments; but, severed from whom, you can no more live than the blossom that is severed from the root and tree on which it grows. Save the country, therefore, that you may continue to adorn it—save the crown, which is threatened with irreparable injury—save the aristocracy, which is surrounded with danger—



save the altar, which is no longer safe when its kindred throne is shaken. You see that when the church and the throne would allow of no church solemnity in behalf of the Queen, the heart-felt prayers of the people rose to Heaven for her protection. I pray Heaven for her; and I here pour forth my fervent supplications at the throne of mercy, that mercies may descend on the people of this country richer than their rulers have deserved, and that your hearts may be turned to justice."

After a pause of a few moments,

The LORD CHANCELLOR inquired, what course the Counsel against the Bill now intended to pursue?

Mr. Denman said, his Learned Friend, Mr. Williams, would address their Lordships, with their permission.

The LORD CHANCELLOR said, he now understood that Mr. Williams, not having yet spoken, wished to address their Lordships. The rule was, that one Counsel should open the case, and, when the evidence was called, that another should be allowed to sum it up, and observe on its bearing and tendency. It was quite new to allow two speeches to be delivered before evidence was adduced. In this important case, however, he conceived their Lordships would exercise a sound discretion in permitting Mr. Williams to address them, though it was contrary to the usual practice.

Mr. Williams then came forward to the bar. He could, he said, assure their Lordships that no man could feel more sincerely, on this occasion, than he did, the various disadvantages he had to encounter; no man could possibly be more aware than he was of the pressing difficulties under which he laboured, when he was about to address their Lordships on this momentous question. He alluded not to the incidental circumstance, that it remained somewhat in doubt whether the privilege or the right to speak might be allowed to him at all (a circumstance, nevertheless, not wholly unimportant with respect to a due preparation for the occasion)—neither did he now advert to the severe demand which he should be compelled to make on their Lordships' patience—a demand perhaps the more severe, because it was in some degree unexpected; but he adverted to his fate or fortune, or whatsoever else it might be termed, which brought him next in succession to the consideration of a subject, which he would not say had been dismantled, but which had been dissected, torn in parts, and laid before their Lordships, quivering, writhing, and trembling, by the marvellous machinery which his Learned Friend brought to bear on this and on every question. In treating this subject he would cast behind him every unfair consideration—and, having expressed this sentiment, he could at once, he hoped, be believed, when he said that he deprecated most decidedly any motion that

he stood forward from a spirit of competition. The present was a case marked by this distinguishing feature, beyond any other that had hitherto occurred, from the commencement of the world to the present hour, namely—that it presented to the mind nothing but pure and unmingled evil, without the slightest portion of benefit. His Learned Friend had evinced an enlarged intellect to comprehend, a power to express, a courage to meet all difficulties, a varying and shifting attitude, suited to every change in this case, in the course of his honourable and glorious exertions—exertions, the force of which was then alive in the memory, in the judgment, and in the feelings of that House. It now became his office, after the labours of his Learned Friend, to collect the scattered remnants, which, in the course of the proceedings on this bill, might have been overlooked or left behind, in order to fill up that measure of condemnation, which, with all his heart he hoped, and in his conscience he believed, was not remote or distant, but now awaited this prosecution, though it was the third which had been directed against his Royal Mistress the Queen. He would ask their Lordships, who were the parties in this case? That surely was not an immaterial consideration, before he proceeded to any thing else. He was aware that it had been with difficulty that they had attained a certain degree of knowledge—that some explanation had been allowed with respect to the party to whom her Majesty's counsel were opposed. They originally knew that they were opposed to some person or other, and the power was not the less formidable for being imperfectly divulged. But, not to speak disrespectfully of the name of his Majesty, the King,—that name which in itself was "a tower of strength"—a name which, nevertheless, stood in the front of this bill—it was past speculation—it was now no longer a matter of doubt who the prosecutor was. On the one side, their Lordships saw arrayed before them all the weights of the Crown—power, authority, wealth, influence, (that influence from whence a large portion of this evidence was derived); and, on the other, her Majesty the Queen, borne down by a series of harsh treatment, to which affliction had already been made—(and on which he would say no more at present)—"shorn of her beams," deprived of her honours—a Queen, who, with reference to this prosecution, had, by the vicissitudes of fate, by the changes of fortune, by the death of some persons, by the casuistry of office in others, been deprived of the most powerful, the most active, and the most zealous of her defenders. It was necessary, with respect to this view of the case, if their Lordships wished to allow the free and fair operation of their minds, that they should combat strongly against any thing like the

ascendancy of power on the one hand, opposed as it was to the helplessness, the desertion, the want of friends, and the absence of protectors, which appeared on the other. They were told, by a wise people, to whom reference was frequently made, and not without reason, that this caution, with respect to the paramount authority of the accuser, ought to be strictly and vigilantly exercised; because, if it were not, that authority might be productive of much abuse:—"*Semper in hac civitate (said Cicero), nimis magnis accusatorum opibus et populus universus, et sapientes, ac multum in posterum prospicientes iudices resistunt*"—a testimony, which, at the outset, he would take the occasion to notice as remarkable on this ground, that it showed the opinion of the universal people of Rome, and of the wise and provident judges, to be one and the same. Cicero went on thus:—"*Nolo accusator in iudicium potentiam offerat, non vim majorem aliquam, non auctoritatem excellentiam, non miniam gratiam; valeant hæc omnia ad salutem innocentium, ad opem impotentium, ad auxilium calamitatorum; in periculo vero, et in perniciem; repudientur.*" Their Lordships ought, and he doubted not would, exert a powerful caution, and keep their minds perfectly clear from any undue bias, in the course of this conflict, in order that strict, impartial, and equal justice might be awarded to the parties. There was another topic to which he would take leave to allude. He would not waste their Lordships' time by stating, after the many discussions they had heard on the subject, the whole course of proceedings adopted in the courts below; but he would observe, that it was an invariable and sacred rule in those proceedings, that on the evidence in the case, and on the evidence only, was the judgment to be formed. In this case, also, he trusted that no previous opinion—that no preconception, from whatsoever quarter, it might be derived—that no rumour, however frequent it might be (and, for any thing he knew to the contrary, rumours might have been frequently repeated)—should be suffered to interfere with the case; but that the evidence, and nothing but the evidence, would be the rule and criterion of every Noble Lord who heard him in deciding on this most important question. Without this sentiment prevailed, no longer could there be any chance for the party accused; without that feeling existed, he knew not by what secret power—he knew not by what doubtful means—he knew not by what hidden springs—he knew not by what obscure motives, conclusions might be arrived at, and acted on. But this he knew, that, except by an open, a public, a fair, and an equal examination of evidence on both sides, justice could not be administered. While he was on this subject he wished to call their Lordships' attention to another part of the case, not altogether unconnected with it.

How did her Majesty the Queen stand at present? She stood under those difficulties of defence which he had ventured to urge—placed in the midst of proceedings which had not the most remote analogy to those carried on at any other tribunal. She was most critically situated, and had to surmount a variety of difficulties, which, in the case of no individual that stood at the bar of any other tribunal in England ever had been, or ever could be encountered, while the law remained the same as it was at present. Let their Lordships examine the question; and, though the subject was not new, he was sure he should stand excused (thinking, as he did, that it was a matter which pervaded the whole cause) if he called their attention to the manner in which the evidence was brought forward. It was intimately connected with the defence, and went, in fact, to the bottom of the whole proceeding. Whether he was or was not well founded in the remarks he was about to make, it would be for their Lordships to decide. Was there any instance, he would ask, in the history of the law of England, in which a party accused had been kept in ignorance, until the time of trial, of the precise nature of the charges that were to be preferred—of the time, place, and circumstances, under which the accusation was made? He would say fearlessly that there was none. Let them, first of all, take the more formal or technical part of the instruction, if he might use that term, with respect to the party prosecuted. In the first instance, the indictment must specify a particular day and place. He was aware that it sometimes covered a considerable portion of time; but, he would appeal to every learned judge who heard him, if a crime were committed on the first of January—if a robbery were then perpetrated, or a house were broken open—whether an individual would be allowed, for the mere love of fiction, from a vicious love of contradiction, to charge the offence as having been committed on the 1st of June? No; the party was informed of the time when, and the place where, the matter advanced against him as an offence was committed, as nearly as it could possibly be ascertained. Was that all? Had not the party accused been previously committed? Must he not have been committed by some magistrate of the county? and, being so committed, must there not appear, on the face of the writ, a description of the offence? In 99 cases, out of 100—in 999, he might say, out of 1,000, a previous examination, a previous hearing, took place in the presence of the accused and of the witnesses adduced against him; and by means of that previous inquiry he obtained a distinct knowledge of the time and place, as well as of the persons to be brought forward in support of the charge. If it were a wicked fabrication, if it were a gross conspiracy to oppress the accused, he must at least have a specification of time and place, together with

a knowledge of some of the witnesses who were to sustain the case against him. Not without reason, therefore; did the Queen complain that the crime charged against her was extended over one-fourth of the globe, without any particular specification of time, but a mere general statement that it had occurred in the course of six years, and without any knowledge of the witnesses until they came before their Lordships. Well, in his judgment, might the Queen complain that she came to her trial under complicated disadvantages—disadvantages that would not attend the trial of any other individual whatsoever, no matter what was the subject of accusation, within the realm of England. He begged leave to illustrate this fact, and he would put the case to every Noble Lord who heard him, and particularly to those who were conversant in judicial matters:—Suppose a charge of felony, of murder, of burglary, or robbery to be made against an individual; and suppose it to be committed on any assignable day; the party accused was committed to prison, and the trial came on. Suppose it was a circumstantial case, and evidence was adduced in support of it from various suspected quarters, while no testimony of a contrary nature was brought forward to oppose it. He would admit it to be a case of such suspicion, that the prudence of the judge and the conscientious feeling of the Jury could not shake off: what would then be the situation of the accused party?—Why the Learned Judge would say, “If this suspicion that hangs round the prisoner be founded—if it be really true that what looks like guilt ought not to attach to this individual—why is he silent? Why does he not produce his exculpatory proof? The thing was fresh; the proper time and opportunity for defence allowed, and yet he has failed to prepare himself.” Reasoning thus, the conclusion was irresistible; and a man might be convicted of any crime under such circumstances. But he would contrast this with a case that bore some similarity to the present. What if the individual accused was supposed to have committed the offence six years before? Would any Learned Judge, consistently with common sense—on which the law was founded—condemn the individual because he could not procure evidence, after such a lapse of time—when witnesses might have died—when memory might have failed—when difficulties might have interposed, which at an earlier period had no existence? No; on the contrary, this would be the language which the judge would hold:—“Why was not this charge brought earlier? What is the reason of this delay? Why had this accusation slumbered? Do you expect a miracle from the accused? Do you now expect the minds of individuals to be so alive on this subject; as to recollect persons, places, and events, which must by this time have faded from their memory?” Such would be

the language of the judge. The remoteness of the period—the lateness of the charge, to which, if answer could be given, that answer should long before have been called for—those circumstances must be considered as the salvation and deliverance of the accused, for large and liberal allowance was always made for those who were thus situated. When a charge was speedily brought, powerful means often arose to defeat it, and those means might on the moment, be made available. But, after a lapse of years, the facility by which an accusation could be met became narrowed and contracted. If the attack were made the time when the offence was alleged to have been committed, the accused party could perhaps answer it; though, when a long period had elapsed, it might not be in his power to do so. Why were these preliminary remarks made? Because he conceived the nature of the case required them, however little their Lordships might be influenced by them. Petitions had been presented to their Lordships, calling on them to grant to the Queen something like that which every subject of the realm was entitled to by due course of law. To the wisdom of their Lordships it had, however, seemed meet to refuse those several requests. He now demanded of their Lordships respectfully, but, in pursuance of his duty, firmly and boldly, if they would pursue the plain and direct course of justice, to extend to the Queen the full advantage which she ought to derive from the delay which had taken place. That advantage consisted in what he would now state; they would expect the evidence to be clear, consistent, and precise. Now, in proportion as this charge had been delayed, their Lordships would consider, that by this very delay a difficulty was imposed on the Queen, which, while human nature remained as it was at present constituted, must necessarily exist—namely, that witnesses might have died, and that the recollection of time, place, and circumstance, must in the course of years be impaired. If the charge had been preferred about the time when the offence was said to have occurred, it might have admitted of a ready answer, though it might not admit of such an answer now. How then was her Majesty to be defended before their Lordships? By their Lordships exercising a vigilant control over the prosecuting party, in proportion to the hardships which were visited on the Queen. She was surrounded with difficulties, and, in proportion as those difficulties were great, should their Lordships in hearing her case, be vigilant, indulgent, and forbearing, thinking it enough if a substantial answer were given; for he would boldly say, that to answer the accusation point by point would be a miracle. He would say, that unless the caution which he had recommended to their Lordships were adopted in examining the adverse case, and unless they extended the utmost indulgence to her

Majesty, they never could hope to satisfy the judgment of the country. They ought to take special care, if that took place—which God, for the safety of this kingdom, avert!—if her Majesty should be condemned—that it should not be by means, by the operation of which no individual in the history of this country had ever suffered in his life or liberty, in his character or his fortune! These preliminary remarks were well suited to that temper of mind which he called upon their Lordships, not as a matter of favour, but as matter of right, to exhibit in their examination of the adverse case, and in their preparation for that which would be offered in reply to it by the accused party. In speaking of the whole case, and before he came to examine it in detail, it was impossible not to see, and, seeing, not to admit, that the supposition which had been made by his Learned Friend, the Queen's Attorney-General, who had, indeed, anticipated the whole of the case, was completely substantiated by a perusal of the evidence—namely, that the whole case on the adverse side was founded and bottomed in perjury. That was a point which, in his view of it, could not be denied. However fearful the conclusion excited in their Lordships' minds might be, on finding that distinct perjury had been committed before them, was it entirely new in the history of the judicial proceedings of this country—aye, and of the witnesses of this country too—to find a set of persons giving a series of testimony relative to minute details and trivial circumstances, of whom it was as clear, at the conclusion of the case, that every one had perjured himself, as it then was that he was speaking at their Lordships' bar? Was the present case wholly without a motive to produce the perpetration of similar guilt? Had they never heard in the history of their country of individuals—he would not say having been got up, but—presenting themselves as volunteers for the commission of perjury? Was it an unheard-of circumstance that low-bred persons should have a disposition to insult and trample upon their superiors who had fallen from power, or who at least were in obloquy with those that were in power? Was it only in ancient Rome that a disposition existed to triumph over the prostrate fortunes of illustrious individuals? Was it only in ancient Rome that the rejected favourite of Cæsar was liable to the taunts and ignominies of the vulgar? Was it only there that the cry was raised—

—“*Curramus præcipites, et  
“ Dum jacet in ripa, calcemus Cæsaris  
hostem?*”

Were not their Lordships aware that that very enemy of Cæsar, who was thus to be spurned and trampled upon, had been but the previous moment living in the midst of imperial favour? Did not they recollect that the satirist indignantly asked—

—“*Quo cecidit sub armine? quidnam  
“ Delator? quibus indicis? quo teste?*”

Did not they recollect that he added—

“*Nil horum: verbosa et grandis epistola  
venit*

“*A Capreis?*”

Or, in other words, that a large and swollen green bag came over from Milan? So that it was not quite unforeseen that persons might be found, who either from a love of power, or from a desire to worship the rising Sun, or from their own base, and ignoble, and degraded natures, might be led to increase the misery of the distressed, and heighten by calumny the anguish of the fallen. But was there no other motive, besides those which he had just enumerated, that might be attributed to the witnesses produced against his illustrious client? Was there nothing in their evidence calculated to show that a belief existed—was there nothing in the Milan commission itself calculated to excite such belief—among the inhabitants of Italy, that they would not go away unrewarded if they came forward with testimony against a Prince, who had before been the object of calumny and insult? He begged leave also to impress upon the recollection of their Lordships, that not only the government of this country, but also the government of foreign countries, had been concerned in getting up the prosecution against her Majesty. He did not make this assertion upon idle grounds: it had been proved to them in evidence; and, as one instance was much more decisive than a thousand unmeaning generalities, he would refer them to the evidence of Barbara Kress, in which they would find a brace of ambassadors and a brace of ministers engaged in the worthy and reputable purpose of packing up and packing off a whole cargo of those valuable commodities which had been recently landed on the shores of this free country. The names of those ministers were mentioned in the evidence: they were representing, or, he should rather say, that they were misrepresenting, states which, as they were inferior to England, were in some degree under its controul; and yet they did not hesitate to descend to the very honourable, the very dignified, and the very well-concerted plan of getting up witnesses against her Majesty. He felt himself bound to lay these facts before their Lordships, and to call their attention to the conduct of the Ministers Berstett, Roden, Grimm, and Grilling, as detailed by Kress: for by so doing their Lordships would see that something very like an undue influence had been exerted to enforce the attendance of witnesses against her Majesty. There was also another subject which he wished to bring under the notice of their Lordships—he meant the manner in which the witnesses for the prosecution had been remunerated. Might he be allowed to ask, whether the cross-examination of the wit-



nesses had been conducted by her Majesty's counsel with a forgetfulness of that point, or whether allusion had not been made to it so often by them, as almost to have excited the disgust of their Lordships? Had they not put questions relative to the manner in which they were to be remunerated to every witness who had been called? and had there been an instance of any witness acknowledging the receipt of money after the effect of the excessive payments to the captain and mate of the *Polacre* had been discovered? Was not that very circumstance even more condemnatory of the case than the excessive payments which had been made to the other witnesses? There had been no desire on the part of her Majesty to shrink from such an inquiry: her advocates had even courted it, and had been loud and clamorous in their demands for an explanation upon that point. Had that explanation been given by those who conducted the present prosecution? No, it had been carefully and cautiously withheld. Another point, connected with that on which he had been just speaking, deserved the attention of their Lordships. They had not, he trusted, forgotten that his Learned Friend, the Attorney-General, at the conclusion of his case—for, without meaning him any disrespect, he (Mr. Williams) must call it his (the Attorney-General's) case, from the manner in which he had conducted it—had made a singular application for delaying the further proceedings of this Bill, on the ground that certain witnesses, who were wanted to prove an act of adultery at Lugano, had not arrived in the country. Singular as that application was, it had been made. A night intervened. In the morning that application was relinquished. The reason was apparent. In ordinary cases such an application could only be sustained by calling the attorney, or some agent to the party, to prove, upon oath, that the evidence of the absent, but expected witnesses, was important to the case. Had any evidence to that effect been tendered to their Lordships? Had Mr. Powell, whose presence in court such circumstances absolutely demanded, been called before their Lordships? No; the application had, as he had before stated, died quietly away; the opportunity had been allowed to perish, which had been just offered to the adverse party, of proving that it was an unjust accusation against them to say, that they had disbursed large sums in procuring witnesses from Italy, or that they had afforded funds to their foreign commissaries, to their agents in law, to their agents in equity, and to their agents militants—indeed, he knew not by what terms to designate them—to procure men whose consciences were vendible. That opportunity, which they ought to have eagerly embraced, they had wilfully neglected; and the conclusion which he drew from such conduct was, that money had been largely and lavishly expended to get up this prosecution.

At that conclusion he had arrived, not upon the testimony of Italian witnesses (of whom, as of the ancient Greek, it might be said,

*"Græculus cœcicus in cœlum jussoris ibit,"*)

not upon mere surmises, but upon facts which went home to the minds and bosoms of men. The funds of corruption, he must again repeat it, had been afforded, or why had Mr. Powell been withheld from joining in the application made by his Learned Friend, the Attorney-General? Mr. Williams then proceeded to observe, that he must, at the risk of being thought tedious, make another general remark before he entered into the details of the evidence which had been submitted to their Lordships. He did not intend to travel over the ground which his Learned Friend, the Queen's Attorney General, had occupied so ably before him, by dwelling on the glaring and flagrant improbability attendant on the circumstances which had been imputed to the Queen. They had heard that familiarities which had been justly called most disgusting, had taken place between her Majesty and Bergami: but they had likewise heard that her Majesty had been, if the witnesses were to be credited, most careful and cautious that those familiarities should not occur in solitude or obscurity, but in the light of day and presence of multitudes. That was in itself most improbable, but was rendered still more so by a circumstance which had transpired in the examination of no unwilling witness against her Majesty—he meant Do Mont—and of which his Learned Friend had failed to take any notice. If their Lordships would refer to page 384 of the minutes, they would find this additional fact there stated, that the Queen, during all the time that she was accused of conducting herself with this most extraordinary, most open, and most convenient profligacy, (for most convenient it certainly would have been to those who meditated this bill,) thought and believed herself to be surrounded by spies and enemies. What! was it to be believed that a Princess, who had not forgotten the persecution which she had endured in the year 1806—who was not ignorant of the attention with which her actions were contemplated in this country—who did not suppose herself to be in any favour with those who were in power in it—was it to be believed that she would, in the presence of a crew of 23 persons, not only render herself open to the accusations, but even surrender herself at discretion to the malice of her enemies. There was another instance from the evidence, which he wished to place before their Lordships, now that he was discussing the improbability of the charges. Their Lordships would bear in mind what was stated to have occurred at Naples, which had been made the scene of the early as well as the more mature charges: they would bear in mind that Majocchi stated himself to have slept in an apart-



went between the room of the Princess and the room of Bergami; and that he had been stationed there by Bergami himself, in consequence of Bergami's illness: they would likewise bear in mind that there was a light and a fire in that room, and there was no regular bed in it, and that the repose which Majochi was to take—if, indeed, he who was stationed there to watch over a sick man was to take any—was to be upon a sofa. Now that they were on the subject of probabilities, he would ask their Lordships what they would say of this statement? He was well aware that Majochi had previously stated that one access to Bergami's room was through that room in which he himself was stationed; but, in his earlier evidence, his statement was such as would incline any person to believe that it was the only access. At the bottom of page 5, he was asked, "Then it is to be understood there was between the bedroom of the Princess and the bedroom of Bergami nothing but that corridor and that small cabinet?" And he fearlessly answered, "There was nothing else: one was obliged to pass through the corridor, from the corridor to the cabinet, and from the cabinet into the room of Bergami—there was nothing else." He was then asked, "Did any person sleep in that cabinet in general?" His reply was, "There was no person who slept in that cabin—it was free—there was nobody sleeping in it." The next question was, "Did the other people of the suite sleep in that part of the house, or at a distance?" His answer was, "They were separated." But how well that answer tallied with another part of his evidence their Lordships would see directly; at present it was his object to show their Lordships that, so far from the passage through that cabinet being the only means of access to Bergami's chamber, there was another access by another part of the house communicating with the Princess's room, in going through which she would not have had to encounter any watchman, or any other person in attendance on the sick. At the bottom of page 38 and the top of page 39 their Lordships would find the following testimony:—

"Will you swear that there was no other passage than that through the corridor?—I cannot swear; I have seen no other than this, and I cannot say that there was any other but this.

"Will you swear that there was no other way by which any person going into Bergami's room could go, except by passing through the cabinet?—I cannot swear there is another—I have seen but that. There might have been, but I have not seen any, and I cannot assert but that alone.

"Will you swear, that if a person wished to go from the Princess's room to Bergami's room, he or she could not go any other way than through the cabinet in which you slept?

No. 41.

There was another passage to go into the room of Bergami.

"Without passing through the cabinet in which you slept?—Yes."

From this it was evident that there was another way to Bergami's room than through the cabinet in which Majochi slept: and, therefore, unless her Majesty wished to give a distinct notice to a person to watch her conduct—who, from the very occasion, was likely to watch it—he defied the ingenuity of man to find any reason, consistent with common sense or with human nature, which could have induced her to adopt a passage which could lead to nothing but her own exposure, and not go by another, through which she might have equally well indulged the guilty passion which was imputed to her, and, what was still more important, might have indulged it unobserved. Their Lordships all knew the advantage that a party possessed who had "*confidentem reum*:" but if the witnesses for the present case were to be credited, the advocates for the bill had a still greater advantage—they had a defendant absolutely seeking her own conviction. If they could reconcile such an idea with what they knew of human nature, then Majochi's evidence might well stand—then, in spite of all its contradictions, it might be credited. But if they applied to it those tests which would be applied by the judge in any common cases—for the jury were the judges—if they submitted it to the ordinary criterion to which evidence was submitted, then they would reject it as improbable, and would confess that it was impossible to believe it. Indeed, it was his opinion that, making the consideration of the probability of the story a subsidiary and auxiliary consideration to the inquiry into its truth or falsehood, there was sufficient in that story of the cabinet to convince every individual of Majochi's perjury. Leaving that matter, however, to the reflection of their Lordships, he should next advert to Majochi's assertion, that the rest of the family slept at a distance, which, by-the-by, was in this case no indifferent matter. For, what had been all the object of the proof?—what had been all the labour of his Learned Friend the Solicitor-General's summing up, except to prove that, from Naples to Messina, from Messina to the Villa d'Este, and from the Villa d'Este to almost every quarter of Italy, every opportunity had been industriously courted for the purpose of committing the crime imputed to her Majesty? He therefore wished to show their Lordships how Majochi had been borne out in this assertion in his cross-examination. The original examination would be found at page 5 of the printed minutes—the cross-examination at page 76.—"You have said, that, in the house at Naples, the rest of the suite of her Royal Highness, except Bergami, slept in another part of the house

Q 2

from her Royal Highness." The answer was, "I do not remember whether the other family slept separate or distant." Indeed! How then was it that at page 5 he had sworn, with the most unblushing effrontery, in answer to the same question, that they slept separate? It would be a mere waste of time to make any comment upon such a palpable contradiction: it was impossible to consider it as any thing else but a wicked, wilful, and malignant perversion of the truth. He would now call the attention of their Lordships to the mode of examination which had been pursued during this inquiry. If it had been accidental, he could not help but lament it: but it was a very singular coincidence that every thing that could injure the Queen had transpired, whilst every thing that could benefit her had been withheld. If this was the effect of accident, it was a peculiarly unfortunate throw of the dice for his illustrious client. He would refer them to page 301 of the printed minutes, where the Queen's going to bed was the matter of inquiry; and, as it was imputed to her, at Charnitz,

"*Ruse regio in terris nostri non plena laboris,*"

that an adulterous intercourse, or, in other words, adultery had been there committed, it was requisite to observe the manner in which that circumstance was stated. The following was an extract from the minutes:

"Who went to bed in that room besides her Royal Highness? did any body else?—Myself.

"At what time did you go to bed?—Nearly ten o'clock.

"At what time did her Royal Highness go to bed?—At the same hour.

"In the same room?—In the same room.

There the evidence rested: it placed her Majesty in bed, in the ordinary phrase, and without further interpretation; but, in reality the Queen had, at that time, no more gone to bed than he (Mr. Williams) was at the present moment. He should now just beg to refer their Lordships to page 324 of the printed evidence, where the witness answered a question from somebody respecting the statement of the Princess being undressed. The following were the questions and answers in De Mont's evidence:—

Had the Princess undressed?—I do recollect she was in bed, but I do not recollect whether she was undressed.

Do you remember the dress that the Princess was in the habit of wearing at the time?—Yes.

Was it not a blue habit trimmed with fur round close up to the neck, with a great deal of fur about it?—Yes, there was a great deal of fur here (about the bosom): it was a blue dress.

This sort of dress, the evidence showed, was rendered necessary by the frosty state of

the weather at the period spoken of. The witness then went on to state, that she did not recollect having seen the Princess throw off the fur dress in the course of the day. A great deal would in the after-part of this case depend upon this circumstance, and would show to the world that this was a triumphant case for her Majesty the Queen. Was it, he asked, dealing fairly towards the Queen to put some questions to a witness which left a matter to be caught by inference in a most injurious way, of which there was no proof, or semblance of proof, by direct fact? He should be fatiguing their Lordships were he to adduce the almost numberless instances, throughout the evidence, in which much was disingenuously left for inference, which could not be substantiated by even a shadow of proof. He entreated their indulgence while he adverted to other parts of the printed evidence, to show the frequent attempts to create an unfavourable impression by this sort of inference. After describing the state of the tent, the witness (De Mont) went on thus:—She was asked—

Did you go to the tent for the purpose of assisting in undressing her Royal Highness?—Yes.

Was she undressed as usual?—Yes.

She then describes that she left the Princess undressed: but he entreated their Lordships to refer to what she says at the bottom of page 320, and the beginning of page 321. It is as follows, and came out on her cross-examination:—

You have described stopping at Aum?—Yes.

Do you, or do you not, mean to say that you undressed the Princess at Aum?—I recollect I was under the tent of the Princess, but I do not recollect whether I undressed her or not.

Do you mean to say that the Princess was undressed under the tent at Aum?—She had pulled off her upper habiliments.

Do you mean by that the dress in which she had been riding, travelling?—Yes, a gown or robe, which was open.

Do you mean, more than the outer garment, of whatever description?—I do not recollect if it was any thing more.

Thus proceeded the scheming chambermaid with one story at one time, and a different one at another, though she had been long prepared for her statement, for she had been examined at Milan, examined also in England, before she was brought to their Lordship's bar; sworn also in these private examinations—a thing never heard of before in a civil or criminal court of this country; or if heard of, only heard it to reprobated. He was therefore justified in saying, that, instead of its being left open to inference that the Princess was undressed in the tent, he had it from the mouth of De Mont herself that she only took off her riding dress, and threw on a night robe over the ordinary

dress she wore beneath the travelling-cloak. He repeated, was it quite fair then, either to the Queen or their Lordships, to have made such groundless insinuations? If time had had in this case its usual operation, and that the parties had either forgotten all recollection of the particular events, or that the witnesses who could prove it had fallen off to the incidents of human life, then the Queen might have fallen a sacrifice to a foul conspiracy, for she would have been without the means of a successful defence. He implored their Lordships then—he demanded of them, if they would excuse the phrase in behalf of his Royal Mistress—to look closely at the texture of the evidence produced at their bar. Why did De Mont, he would ask, conceal this, when the questions were first put to her? Was it to avoid being caught and detected in that odious mono-syllable, which he would here, for the sake of delicacy, merely call in a borrowed phrase of her own, a *double entendre*? It was very very singular too, that the questions should have been, on the part of the prosecution, so put as to create all the inferences, which, by a strange coincidence, should have an injurious tendency against the Queen. He should not attribute motives; he disliked harshness; but he thought the coincidence to which he alluded was extremely singular throughout this case. In page 253 of the evidence he found the matter again alluded to in a similar manner, where De Mont described the circumstance of the Queen's changing her dress, to represent the Genius of History at the grand masquerade at Murat's court. The following were the questions and answers to which he now referred:—

What dress did she assume the second time?—The Genius of History.

Did she change her dress entirely for that purpose? did you assist her in changing her dress?—I did not.

And though she by this answer, admits that she did not; and afterwards says she did not enter the room at the time; yet she had still the pertinacity to speak of an entire change of dress, though the Queen might merely, as on the other occasion, have changed her outside robe and put on another, more in unison with the second character she meant to assume. This was the part of the subject which was coloured up so highly by the Learned Counsel for the bill, this was the part of the case on which so much stress was laid, and wrought up not only with all the ingenuity of an advocate, but something of the imagination of a poet. He would take one or two instances more of the fertility of invention used on the part of the prosecution. Let them look at what was said by Majochi, a name not easily to be forgotten while the name of England or its language should endure. Which of their Lordships ever learned from the questions put to Majochi in his

examination in chief, that the shores of England had ever been honoured by the witness before he was brought over to be presented at their Lordships' bar? Which of them ever thought Majochi had been at Gloucester, had been in London, had been about in stage coaches here and there and elsewhere? This information, which must have been known to the prosecutors, was entirely kept from their Lordships and the Queen until it reached her Majesty's counsel after the regular examination of Majochi had been gone through, owing to the most accidental circumstances. Were it not for this accidental information Majochi would have passed away unheeded, as one of the new importation, for whose use an adjoining place had been so appropriately fitted up. Had it been earlier known that Majochi was in England, inquiries could have been made, which would have thrown a light upon his character and testimony. Majochi had by this concealment all the advantage of appearing at the bar as dull as a post, while the questions were putting through the medium of an interpreter, and all the opportunities while that was doing of pondering upon and collecting his answers. Of this comfortable delay, no doubt, he had amply availed himself. Care was also taken, in the case of the captain, to conceal the fact that he had still some unsettled claim upon Bergami, founded on expectations held out to him for the conveyance of the Royal passenger. This had been well omitted at first by the captain, who, when he should return to his own country, would no doubt find himself loaded with honours, and the admiration of his fellow-countrymen, for the remuneration he should have acquired by his trip, and which greatly exceeded the earnings of a long portion of life, if devoted to his ordinary pursuits. The information respecting the unsettled claim of Bergami fell out, or rather tumbled out by accident, in the progress of his evidence. The odds were surely extremely high that such omissions were not so repeatedly accidental. The Learned Counsel then proceeded to comment upon the summing up of the Solicitor-General, and particularly upon that part of it in which he stated that the courier (Bergami) was present while her Majesty changed "the entire of her dress,"—a statement utterly unwarranted by the evidence upon which his Learned Friend was then commenting. Besides assuming the "entire change of dress," he also assumed that it took place in a bedroom, of which there was no attempt at proof in evidence. In fact, in one sentence of that summing up, there would be found gratuitous assertion, unfounded assumption, and mis-statement of facts. It was perfectly clear that these mis-statements and false inferences were introduced for the purpose of prejudicing their Lordships' minds, and attempting to create an undue and unwarrantable impression against the Queen. He was

perfectly willing to believe that his Learned Friends acted upon the instructions they received, and that the concealment of the facts lay with the witnesses. On the subject of the dress, their Lordships would recollect how closely he had questioned the witness: he entreated their Lordships to bear in mind her answers, and the subsequent light she threw on her first statements. He asked this of their Lordships in the well-grounded expectation, that as they were not indulgent at first, they would be vigilant at last. He had elicited the explanation regarding the dress, on which so much had been said, because he did not believe that at the Neapolitan court, attended as it was by the nobility of the country, any such indecent dress could have been displayed. The evidence left his Learned Friend's description of that dress utterly unsupported, as it did his other statement of the Queen's having been hissed out of the theatre of San Carlos. Why, he repeated, were such statements made to reflect upon the character of her Majesty, when not a single syllable of evidence could be adduced to support them? One assertion by the Attorney-General was, that the Queen had been hissed by the audience out of the Theatre St. Carlos, but had this injurious imputation received any support from the evidence? Was it not clear, on the contrary, that De Mont had deceived the Learned Counsel,—had imposed upon them by a story which she had not afterwards the effrontery to maintain at the bar? The presumption of British justice had hitherto been, that a person should be considered innocent until proved to be guilty; and if ever a case had arisen where it ought to prevail, by every sense of duty, by every feeling of delicacy, by every impulse of humanity, it ought to prevail in this. It could not be impressed too deeply, nor meditated upon too intently, by their Lordships. One of the strangest incidents in the whole proceeding had been the rare and curious composition of the memory of Majocchi; it was a most singular, nay, an unnatural, and impossible memory—it was all on one side of the question—it was a perfect blank to every thing in favour of the Queen, and crowded with inventions and falsehoods to destroy her innocence. He begged the House to bear in mind the instances adduced by his Learned Friend; for it was as manifest as that the sun had not yet set, that a witness might commit perjury in a negative shape, in the same way that an injury might be done by omission, as her Majesty had more than once experienced. In page 6 of the evidence, Majocchi, with a degree of condescension to which he was not often prone, when he spoke of the sickness of Bergami, when the Queen visited his bed room, mentioned the name of Dr. Holland as having been present; but when the Queen's Attorney-General was endeavouring, in his cross-examination, to explain that visit in the most

innocent way, by showing that Bergami was too ill to allow the possibility of guilt, then this adroit and accomplished witness, Signor *Non-mi-ricordo*, with a memory so accommodated to circumstances, could not recollect that he had ever seen any medical man at all with Bergami. He now came to some circumstances connected with the evidence of Mademoiselle De Mont, who was also, in some respects, a signal instance of impartiality of memory. Before, however, he proceeded, he begged to put it to their Lordships whether they believed there was a word of truth in the ingenious, elaborate, explanation attempted by this lady of what she had once deliberately written.—When cross-examined on the first day, when attention was called to her letters, she had never dreamed of mentioning any thing like a *double entendre*; the day passed away, and no explanation passed her lips. On the following morning, however, she thought she could mend her story: she had slept upon the matter, and above all, within the circuit of less than a hundred miles from the House of Lords, for he would not assert that it was within the walls, she had had a conference with some person that was of most material importance in doing away the force of the expressions in her correspondence. Whether that conference had lasted for two hours or for five was of no consequence; the result of it was a regular explanation, as systematic as any of the orations of Cicero: it was formed on a classical model, like the speeches of the King's Attorney-General, who was perhaps the only man of the present day who could be at all compared with the orators of old.—De Mont's explanation had a beginning, a middle, and an end, and the whole was the effect of that interview and rehearsal which she had afterwards acknowledged, but at first denied, insisting that after the examination of the preceding day she had gone home directly, which neither in French, Italian, nor English, in Greek, Latin, nor Hebrew, could mean any thing but that she returned without any delay. After all this preparation and study—after consulting the prosecutors, and her pillow—was her explanation in any respect satisfactory? He would venture upon this general assertion, that it had not the shadow of a shade of sense in it—that there was not the slightest pretence for it in the letters, which were in themselves perfectly intelligible, and, with her gloss, perfect obscurity. It would be to trifle with the time of the house almost as grossly as she had trifled with her oath, to use any arguments to show its absurdity. The author of some future comedy would here possess a fine original, upon which to draw the character of an intriguing, shuffling, lying, artful, chambermaid. He put it to their Lordships, whether it was not insulting common sense to pretend that by the expression of “the ca-



pital of Europe" in one of her letters, she meant that obscure spot which had given her birth, and to which it were to be devoutly wished that it had pleased God to confine her. At least she was desirous that it should be left doubtful whether by "the capital of Europe" she meant London or Colomblér: *neque rationem neque modum habet illam*; the thing was wholly incredible, and it would only be *rationem insanire*, as the comedian expressed it, to waste words upon its refutation. He adduced these as specimens only: he left the great mass to their Lordships, who no doubt would examine the whole evidence with more patience and industry than he had done, because they had more high and important duties to discharge than those by whose weight he, as an advocate only, was oppressed. They would find, that on page 577 of the evidence, De Mont was trying her hand in one of her letters to her sister at a panegyric, and she chose as her subject her gracious and illustrious mistress, the Queen. "How often (she said) in a numerous circle, whilst, with all the enthusiasm which animated me, I enumerated her great qualities, her talents, her mildness, her patience, her charity, in short, all the perfections which she possesses in so eminent a degree; how often, I say, have I not seen my hearers affected, and heard them exclaim, how unjust is the world to cause so much uneasiness to one who deserves it so little, and who is so worthy of being happy." He asked their Lordships again, whether they believed all this to be but the fraudulent cover for malignant hate? Did it mean what it expressed, or any thing else? Was it at all improbable that the writer should be sincere? Was the object of her eulogy undeserving of it? Was she the only person who entertained this opinion? Had no one else said as much, or nearly as much of the same illustrious female? He thought that he had heard something very like it before, and that from no mean authority—from a man of an elegant classic taste—who was celebrated for his spoken and written compositions—who was gifted with a knowledge of ancient and modern languages. He had pronounced on an occasion of no little solemnity, that the Queen was "the grace, the life, and the ornament of the society in which she moved." Was this testimony to be taken in favour of her Majesty, or was it also, like the panegyric of De Mont, to be looked upon as a cover for malignity, and a *double entendre*, which explanation only served to render more profoundly obscure? If then the Queen were worthy of this laboured panegyric from so accomplished a source, surely the house would not consider her undeserving of the inferior encomium of a Swiss chambermaid. But he (Mr. Williams) would do De Mont justice against herself; he would assert that she belied her better knowledge, and her

better nature, when she attempted to give any other sense to her letters than the obvious and clear import of the language she employed. For aught he knew, if it were necessary, he might bring to their Lordships' bar the distinguished individual to whom he had alluded, who had publicly declared his opinion of the excellence of her Majesty, to repeat in testimony the tribute of admiration he had so justly bestowed. He would now claim the attention of their Lordships to a declaration made by the Learned Counsel on the other side, and to which he had listened with much satisfaction, and with perfect concurrence: it was this—"that every part of the evidence that might be deemed material, without regard to its influence or impression, should be brought forward; for it was the duty of the Counsel in support of the bill fairly and candidly to present to the house the whole case, without considering themselves as it were the advocates of a party in a suit." Nothing could be more proper than such a declaration; if they had acted up to it, the Queen would have had nothing to ask: it was the whole of her case. "We undertake (said they) to bring before your Lordships all the evidence the case affords, not of a condemnatory nature only, but the whole evidence, whatever be its imports or effect; whether it be for or against the Queen of England." Such was the engagement into which they had entered, and with infinite pleasure he had treasured up these proverbial words of wisdom and liberality. It was, in fact, not a dispute between adverse parties; it was a solemn proceeding, not to gain a victory or some party triumph, but to arrive at truth, the whole truth, by means of the evidence and the whole evidence. It was therefore with infinite regret and signal dismay and astonishment that he had afterwards heard the Solicitor-General, in his summing up, make no less than four distinct challenges to the Queen's Counsel, in the same way as if it had been a mere *nisi prius* case for the recovery of 5*l.* for goods sold and delivered. He had dared them to produce Louis Bergami, Bartolomeo Bergami, Brunette, and another witness. He mentioned this to show the gross contradiction between the principles and the practice of the other side—between their high-sounding professions and their conduct. Where were now those words of wisdom and liberality in which the people of England were assured that the whole case should be fairly, fairly, freely, and fearlessly investigated. They were mere words, answering a temporary purpose, but never intended to be carried in effect. Had the Attorney-General taken one step to perform what he had promised? Where was Dr. Holland? Where was Lieut. Howman? Where were the noble ladies attendant upon the Queen? Had any of those competent and credible witnesses been adduced? No: but *dum tacet loquuntur*—



their absence was as useful to her Majesty as if they had been brought to the bar; the other side had not dared to call them, which showed what must have been the import of their testimony to the vindication of the Queen, and the condemnation of her accusers. This sort of challenge had been imported into this great inquiry from civil causes, where it was often pressed too far; but in all criminal proceedings, even in our lower courts, the party bringing the charge was bound to establish it by sufficient evidence; and if he failed, the accused was not bound to supply the deficiency, or to establish his innocence in the absence of all proof of guilt. He did not say in the history of English justice, but in the history of English injustice, (for such it would be,) who had ever heard of an unfortunate accused being met by being told, "If you do not call this or that witness, whom the prosecutor had it in his power to bring forward, we shall consider that you acknowledge the justice of the charge?"—The case ought never to be left doubtful, or if it were, the prisoner had a right to the benefit of that doubt. If he (Mr. Williams) in the course of his professional duty indicted a man for murder, and purposely kept back from the jury a witness, because he might possibly say something to lead to the acquittal of the wretched being, he should consider that he, as a counsel, was a party to that man's death when he was hanged for the crime. But this was not even a case of that description: it was far more important than a question even of life and death, and legal manoeuvres and the dexterity of practised advocates were wholly out of their place; they were unbecoming both the subject and the situation. He was earnest upon this point, because he felt earnestly; he felt here not merely for the interest of his illustrious client, whose character, honour, and dignity, were at stake, but for the country itself, whose tranquillity and happiness were not less in jeopardy. He called upon their Lordships therefore to weigh the matter well, and to deliberate anxiously and carefully before they allowed this challenge to operate against the Queen. "I defy my Learned Friends (said the Solicitor-General) to call Louis Bergami." What did he mean by this, but that if the call were not complied with, he should obtain the verdict, he should gain his point; and what was that point which was thus treated as a question regarding a farthing damages? It was no less than the passing of this dreadful measure, the accomplishment of one of the most terrible mischiefs by which the country could be afflicted. What, however, was Louis Bergami to prove when he was produced; how was he implicated? In no other way than that Majocchi, speaking of a breakfast at which the Queen and Bergami were seated at the same time, swore that either Louis Bergami or Camera waited upon

them on the occasion. So that even the presence of Louis Bergami was not vouched, and the Solicitor-General had gone beyond the manoeuvre, the artifice, the legerdemain, the dexterity, the trickery of an advocate in the pettiest cause that ever degraded the meanest court of justice in the kingdom. Next he said in the same spirit, "I defy you to call Bartolomeo Bergami;" but here again it was *telum imbellè sine ielo*: there was all the will to wound, but the blow was impotent and harmless; suppose this person were produced at the bar, did not the experience in the world of every man show, that supposing the crime of Bergami more or less, his answers at the bar upon this subject must necessarily be of one description only. Such an attempt on the part of the Solicitor-General in a case of this kind was a shameless prostitution (without offence be it spoken) of a low, contemptible trick of courts, unworthy of the wisdom and of the great political and legislative character of the House of Lords: this was not a trial at *Nisi Prius*, it was a Bill of Pains and Penalties, a measure which Lord-Chancellor Cooper had declared, in his celebrated protest, ought never to be resorted to, but in cases of the last necessity; and for this reason he (Mr. Williams) asserted that the analogies of common law proceedings had been shamelessly introduced. The charge against the Queen was of no distinct crime known to the law, and the law therefore had affixed to it no specified punishment; to talk of analogies was therefore ridiculous, and the House in its political and legislative capacities, both of which were here to be exercised, ought not to be guided, much less governed, by any low technicalities. He hoped, then, he should hear no more of analogies, which were only talked whenever they tended to abridge the rights and injure the cause of her Majesty. Protesting to the utmost of his power, as zealously as his Honourable Friend, that the non-production of these witnesses on the other side was a clamorous evidence in favour of the Queen, nevertheless there were high interests at stake which rendered it necessary that they should be called. Witnesses their Lordships would have—the challenge would be met; but with respect to what would be proved, he begged, in what he should now state, to be distinctly understood. On the other side, 3 years' application had been devoted to the case; equitable, legal, and military commissions had been sent out; examinations upon oath, and without oath, had been taken. Witnesses had been interrogated in Italy, on the road, and in this country; so that every letter and figure of what they could depose had been distinctly ascertained. The Queen had possessed no such advantage.

The EARL of LAUDERDALE here interposed, and observing, that it was now 4 o'clock, and that the Learned Counsel was entering upon a new branch of his subject,

he recommended that the House should adjourn until to-morrow.

Adjourned at 4 o'clock.

## HOUSE OF LORDS,

THURSDAY, OCT. 5, 1820.

At 10 o'clock prayers were read by the Bishop of BRISTOL; and the LORD-CHANCELLOR asked whether it was the pleasure of the House that Counsel should be called in.

### NEAPOLITAN REVOLUTION.

LORD HOLLAND rose.—Before the Counsel were called in he thought it necessary to ask the Noble Lord opposite a few questions on the subject of foreign relations. Among the mass of papers on the table there was a treaty, by which the five great powers of Europe had formed themselves into a tribunal to judge the conduct of other nations. They had established a sort of state policy, by which they were, on every emergency, forcibly to interfere in the concerns of other countries. From the armaments of Austria, and the publications which had taken place, it seemed to be thought that that emergency had now arrived. The great variety of menacing papers which had appeared in the foreign journals, both from Russia and Austria, on this subject, he conceived, gave him a right to ask the Noble Lord to state what connexion, if any, subsisted between the engagements of this country and the proceedings of Austria with respect to Naples? But assuredly he did not ask this question in any spirit of hostility towards the Noble Lord opposite. He was solely induced to ask the question because he thought it fit that their Lordships and the public should be put in possession of the sentiments and views of his Majesty's government on this subject. He asked it too, in the confidence that the answer of the Noble Lord would, like that given to the question he (Lord Holland) had put in the similar case of Spain, redound to the credit of ministers themselves, and prove beneficial to the country. Such an answer would also be useful to those who in another part of the world might wish to effect a revolution advantageous to their country. He therefore asked, whether any communication had taken place respecting the object of the armaments now making by Austria, and whether that power had demanded any assistance? If such demand had been made, he wished to know what answer had been given by ministers, and whether any countenance had been given directly or indirectly to the principles of interference in the concerns of independent nations professed by the great powers of the Continent? He was also desirous of knowing whether the revolution which had taken place in Naples

altered in any degree the relations of amity which had previously subsisted between his Majesty and the King of the Two Sicilies? He trusted that the answers of the Noble Lord to these questions would be such as to show that his Majesty's government had no concern and felt no common interest in any schemes which had for their object an interference in the domestic affairs of other nations.

The EARL of LIVERPOOL was perfectly willing to give his Noble Friend an answer which he trusted would by him be considered satisfactory: at the same time he thought it necessary to observe, that their Lordships must be aware that, consistently with his public duty, some points of these questions were of a nature to preclude minute explanations. The Noble Lord regarded the events which had taken place at Naples as similar to those which occurred in Spain. Before, therefore, he answered the questions of the Noble Lord, he thought it expedient, to obviate any misconception on this subject, to state that he certainly thought the revolution in Naples differed considerably from that in Spain. This difference arose out of the state of the Sicilian dominions; for it was notorious that there subsisted a division between the two members of that monarchy, and it did not appear that Sicily had yet acquiesced in the system of government established at Naples. It was not his wish at that time to enter into any discussion on this question; but thought it merely necessary to remind their Lordships of the circumstance to which he had alluded, and which constituted a difference between the two cases. Having stated thus much by way of preliminary explanation, he should now, in answer to the Noble Lord's questions, say—without giving up the right of the government of this country to interfere in the concerns of other nations, under certain circumstances which might call for such interference—that he had no difficulty in declaring that it was no part of the policy of his Majesty's Government to interfere in the internal affairs of other states, and that the Government was no party, either directly or indirectly, to any engagements for such a purpose. He wished it to be distinctly understood that in what he said he never meant to fetter the discretion of the government as to what might be thought fitting under particular circumstances; nor was he giving any opinion as to what other countries might think fit to do in the situation in which they might be placed. On these points his Noble Friend had no right to expect him to enter into details. As he had said, however, he had no hesitation in declaring, that it was no part of the policy of this country to interfere with the internal government of other states, and that no engagements to that effect existed.

LORD HOLLAND was happy to hear the explanation which had been given, so far as it went; but the Noble Earl had not fully answered his questions. The Noble Earl had alluded to a difference between the cases of Spain and Naples, in consequence of the division which appeared to subsist between the two members of the latter monarchy. He should be glad if the Noble Earl would inform him whether he considered the events which constituted that difference to have altered the relations of amity which had previously existed between his Majesty and the King of the Two Sicilies; and whether that difference appeared to him such as to bring the case of Naples in any way within the exception to which he had alluded.

The EARL of LIVERPOOL had omitted to answer the Noble Lord's question respecting the relations between this country and Naples merely from oversight. It was well known that a gentleman of great respectability had for some time filled the situation of his Majesty's minister to the King of the Two Sicilies. That gentleman was still at Naples, but not in the same character. He had no hesitation in stating, that since the late change took place at Naples no new letters of credence had been seen out to Sir W. A'Court. The existing state of the government of Naples would sufficiently account for this; but the fact was, that in the present circumstances it had not been thought right to give any new letters of credence to his Majesty's minister at Naples.

LORD HOLLAND asked whether the occurrence of such a revolution in a country like that of Naples was thought a sufficient reason for renewing letters of credence to an ambassador?

The EARL of LIVERPOOL did not mean to say that, under ordinary circumstances, when a revolution took place, new credentials should be given to the resident ambassador of this country. He had, however, no difficulty in informing their Lordships, that in the existing state of Naples it had not been thought fit yet to give any new letters of credence, and none had been received from the government of that country.

EARL GREY repeated the statement which he understood the Noble Earl to have made, and observed that its result was, that the late accredited minister of Great Britain at Naples remained there in no official station. This, he must contend, was a suspension of the amicable relations between the two countries, which the events that had occurred at Naples did not justify. He had heard the declaration of the Noble Earl on this subject with great pain. He admitted that the division which subsisted between the two states which composed the Sicilian dominions constituted a difference between the revolutions of Spain and Naples: but

that difference was not such as to make it right in this government to suspend the usual relations of amity with his Neapolitan Majesty; more especially at a time when every motive of interest and policy dictated the extending and cultivating the relations of peace with every part of the world. From what the Noble Earl had said upon the present situation of his Majesty's minister at Naples, it appeared that he thought new letters of credence necessary. Now, suppose the King of Naples had been continued in the exercise of the royal authority, notwithstanding the revolution, would new letters of credence have then been necessary? (Lord Liverpool made a sign across the table.) The Noble Lord, it appears, thinks not. Then how did the circumstance of the Duke of Calabria, to whom the King had delegated his authority, being at the head of the government, make such a difference? He apprehended that the very same thing had occurred at Naples as had taken place here when the Prince Regent was placed at the head of the government of this country—that is, that the sovereign authority of Naples was exercised by the King's son, as Vicar-General of the kingdom. He could not, therefore, think that what had fallen from the Noble Earl on this subject was any encouraging symptom of that amicable spirit by which he represented his Majesty's Ministers to be guided. There was another circumstance in the Noble Earl's explanation which was not quite satisfactory. If he had rightly heard and rightly understood what passed, the Noble Earl had intimated that whatever measures might now be taking by Austria or other powers, in hostility to the revolution of Naples, such proceedings, whatever they might be, had not taken place in consequence of any communication with this country, and had not received any encouragement whatever from his Majesty's government. He wished that the Noble Earl had added, that these proceedings had not only not received, but that there existed no disposition to give them, any encouragement. He hoped, however, that he might understand him in this sense. Into the abstract question of possible cases in which interference might be justifiable he should not enter; that such cases might occur every body admitted; it was sufficient that they did not now exist. But, supposing things to remain as they were at present, he must consider the government as solemnly pledged in the face of the house and of Europe, that no encouragement, direct or indirect, was to be given to any measures that Austria might adopt with a view to interference in the affairs of Naples. This pledge would be of the greatest advantage to this country and to Europe at the present moment, when sentiments prevailed such as those he had seen in a state-paper lately published. That paper as he had read with disgust, as if

contained those principles of arbitrary power which were more consistent with a conspiracy of Kings against liberty than with an alliance deserving the name of Holy. He was glad, therefore, to hear that no encouragement, direct or indirect, was to be given to Austria.

The EARL of LIVERPOOL thought it necessary to rise again to obviate any misunderstanding. He wished to repeat that it was not the policy of this country, at this time, under present circumstances, to interfere with the internal concerns of any other country—that this country was no party, directly or indirectly, to any engagements of such a character, and had not, directly or indirectly, encouraged any measures of the nature alluded to on the part of other governments. This he stated most distinctly, with the reserve that he would not fetter the discretion of the government of this country by saying what course might thereafter be pursued under possible and eventual circumstances. All he desired was that what he had stated might be taken in the terms in which he had stated it, and not in those in which others might describe it.

#### M. MARIETTI'S CORRESPONDENCE.

The MARQUIS of LANSDOWN said, that having been the person who had first called the attention of their Lordships to a letter of M. Marietti, which seemed to indicate an attempt on the part of Colonel Browne to interfere with the witnesses in the cause before the House, he should have been sincerely happy to be able to express his satisfaction at the explanation which had been given in the letters which the Noble Earl opposite (the Earl of Liverpool) had produced. Unfortunately that was not in his power, as a letter had come into his possession at the same time that the Noble Earl had produced his explanation, which letter tended to throw a light on the proceedings very different from that which the Noble Earl's explanation had cast on them. That letter had been sent to him by a person with whom he had had no previous intimacy, and who had given him no special authority to make public use of it; and he (the Marquis) in discretion had thought fit not to do so. But since that time not only the letters to which he had alluded, but other letters throwing a still stronger light upon the case, had made their appearance in the public papers; and, great as his satisfaction would be in declaring his conviction that there had been no interference, he could not now have that satisfaction. Any of their Lordships would see that the case could not rest there. Far would it be from him, even on the assertion of M. Marietti, though he believed him to be as respectable as any man, to condemn an individual without a hearing. But if their Lordships would read those letters, they

could not help feeling a doubt that M. Marietti was induced to make the communication to his son, not by a direct intimation from Colonel Browne, but by one conveyed through the confidential clerk. The first letter of the elder Marietti bore date the 16th September, and contained the following passage:—"It is true that Browne has expressly and repeatedly insisted with M. Albertonio that he should make known to you the dissatisfaction in that quarter towards you, and the danger of the Alien Bill, which you were going to encounter." That letter had been written after a knowledge of what had taken place in England. There was a subsequent letter from the same gentleman, dated Milan, Sept. 20, in which it is said, "He (Col. Browne), seeing himself much disquieted on this account, made such an application to Sig. D. Ciceri, and to Sig. Albertonio, that the former begged me to convey to the said Col. Browne a letter of mine, which in a certain way (*in certo qual modo*) might justify him with his government from the too rigorous interpretation given to my former letter. And after having written and re-written, through the medium of the said Signor Ciceri, draughts of such a letter to be shown, the copy which I enclose to your address was fixed upon. You will likewise find the copy of a letter which the said Colonel Browne desired from the said Signor Albertonio, who gave me the account contained in the letters formerly addressed to you. To the honour of truth, I have regarded what Colonel Browne said, through the medium of Signor Albertonio, as an act of friendship, to prevent him from being brought into any danger; nor could I ever have imagined that such a thing could have been of as much importance as it has proved. However that be, to facilitate the allaying of such a controversy, and to preserve amity with all, I have thought proper to second it, as you will perceive by the copy. They wished me to declare that my first letter was the result of my own simple suspicion, and had no ground to rest upon; but this I would not allow, because the having named Colonel Browne in the way I did would have been charged on me as a calumnious imputation; and, therefore, you will see in my letter sent yesterday to him (Colonel Browne) that I mention my not having direct conversation with him, and deriving my information from what he caused to be said to me by Sig. Albertonio. Regulate yourself, therefore, in every thing with the greatest prudence, in order not to incur other annoyances, and other dissatisfactions, which can only produce evil to you." The expression of the Italian, as to the representation he had made, was stronger: it was *lasciar anello*, to leave a loop-hole, "to leave a ring," on which to hang a construction of the case. Now as to the considering all this interference of Colonel Browne a mere act of friendship—this intimation to a person of



whom he had no knowledge, and made too through a clerk—considered too, as the emanation from a person who was the agent of the opposing party in the Queen's cause, and representing, as the Noble Earl said, though to a qualified degree, the government of England—how could it but be regarded by an individual like M. Marietti, living under a government of which it was no satire to say that it was absolute and despotic (for such it professed to be)—how could it be understood by him but as a desire to influence his conduct? And it had influenced his conduct in his communications to his son. He did not wish, however, to condemn Colonel Browne, but he thought the whole of the letters should be made in evidence, to bring the whole of the case under the view of the house. M. Marietti could give in and authenticate the original letters.

The EARL of LIVERPOOL agreed that it would be perfectly impossible that the thing could rest where it was. His only desire was that Col. Browne should not be prejudiced till a further explanation was required and given. Col. Browne, it was plain, had had no communication directly with M. Marietti; whatever had passed must have gone through a third person—M. Albertonio. Colonel Browne asserted that he never even referred to the Alien Act, and this M. Albertonio did not deny. He was willing the papers should be made official; perhaps to make them evidence would be most advisable.

The MARQUIS of LANSDOWN observed, that there was no explicit denial that the Alien Act had been referred to either from Colonel Brown or M. Albertonio. The latter said he was ignorant of its provisions; and Col. Browne said he had not threatened that it should be applied to M. Marietti.

The EARL of LIVERPOOL observed, the first letter (which was the origin of all the explanations) should be put in as well as the others.

After a few words from the Marquis of Lansdown and the Earls of Liverpool and Lauderdale, M. Marietti was conducted to the bar. Having stated that his name was Joseph Marietti, he was sworn, and the letters alluded to by the Marquis of Lansdown were handed to him.

The MARQUIS of LANSDOWN.—Look at these letters, and state whether they are original letters which you received from your father. Witness.—The first is an original letter written to me by my father on the 21st of Aug. I received it by the post. The 2d letter, dated the 16th of Sept. my father also wrote to me. It was directed to my house here, and I received it by the post. The 3d is a copy of a letter from my father, relative to the communication of Col. Browne, and directed to the Col. dated the 19th Sept. I received it enclosed in the 5th letter. The 4th is a copy of the letter of Signor Alber-

tonio to Col. Browne, dated Sept. 19. The 5th is dated the 20th Sept. I received it from my father by post.

Are all these letters in the hand writing of your father?—They are, except the copy of Albertonio's letter, which is in Albertonio's hand-writing.

Have you received any other letters on the subject of the communication made by Col. Browne?—None at all; these are all the letters?

Have you received none from Albertonio?—I some time ago received a few lines at home from him, stating it to have been mentioned to him that I had been in the house of De Mon'. I answered that it was not true, as I never had been in the house of De Mont in England.

By the EARL of LAUDERDALE.—There is a person named Ciceri mentioned in one of the letters: who is he? He is a person who used to come to our house, as a very great friend of Col. Browne. I recollect, when I came in January last, he asked me to take some despatches from Col. Browne here.

The EARL of HARROWBY wished that the communication from Signor Albertonio, to which the witness had alluded, should be produced.

The EARL of LIVERPOOL.—Have you the letter you referred to in your former answer, from Signor Albertonio?—I believe I have. It is written on a portion of another letter.

The LORD-CHANCELLOR directed the witness, before he attended the House in the morning, to search for the letter; and, if he had it, to bring it with him.

The witness was then ordered to withdraw.

#### HER MAJESTY'S CASE.

The motion, "that Counsel be now called in," having been put from the woolsack, and agreed to, the Counsel for and against the Bill of Pains and Penalties were introduced in the usual form.

Mr. Williams immediately resumed his address. In the course, he observed, of his Learned Friend's luminous speech, there certainly was not any point on which he had exerted his talents with greater effect, or on which he (Mr. Williams) was more justified in addressing so many observations to their Lordships, than on that part of the case which consisted in the Counsel on the other side having been deficient in calling all the witnesses that might naturally have been expected, while, on the other hand, the Counsel on the part of the Queen were, in consequence of the difficulties that were opposed to the production of evidence for her Majesty, driven almost to the necessity of not calling any witnesses at all. That observation would receive the strongest confirmation when he laid before their Lordship the pe-



cular difficulties under which Her Majesty was placed. As he had stated yesterday that observations pointed to and founded on particular facts led to more decisive conclusions, and had greater weight than mere narrative matter, he hoped their Lordships would permit him to commence by stating to their Lordships one or two facts illustrative of the various difficulties by which her Majesty was surrounded. Their Lordships would doubtless bear in mind what was attempted to be proved by a woman of the name of Kress. Her evidence, which had already been alluded to, was not material for his purpose, on this occasion, farther than to call to their Lordships' recollection that the general nature of the fact, so proved by this woman, was her seeing the Queen and Bergami in a bed-room together; connected with some details about the situation of Bergami's arms. Now nothing was more necessary, however late her Majesty was apprised of the specific charge against her, than that every inquiry should be made for the purpose of repelling it, and that the utmost diligence should be used to obtain information with respect to her residence at Karlsruhe. And, amongst others, it appeared, that there was a Chamberlain of the Grand Duke of Baden, who had been in attendance on her Majesty during her continuance at Karlsruhe. Now, to show that in all probability this individual would be an important witness,—and that, but for some extraordinary circumstances, which he could not account for, he would have been present on this occasion—would, he conceived, be a superfluous waste of time on his part.—This individual did not attend on her Majesty once or twice, but attended her constantly during the whole of her residence at this place. Accordingly, feeling the importance of his evidence, and being desirous, as far as possible, to be armed and prepared to meet the case set up against her, the Queen wrote a letter with her own hand, which her Majesty sent by a special messenger to the Chamberlain. The messenger she employed was more than ordinarily respectable. In order to impress the Chamberlain's mind with an idea of the respectful light in which she viewed his character, her Majesty selected the brother of his Learned Friend, the Attorney-General of the Queen, to be the bearer of her letter. That application did not, however, procure the attendance of the witness. The Queen then wrote a letter to the Chamberlain, and another to the Grand Duke on the subject, but with no better success. Three letters, therefore, were sent, by a special messenger, to this particular person, a most material witness on the part of the Queen, which, however, failed to produce his attendance. On the last occasion, the messenger sent by the Queen, to obtain the attendance of the Chamberlain, was informed by him, that he was willing

and desirous to come to England—he expressed himself eager and anxious to give his testimony—but he added, with tears in his eyes, that he had orders from the Grand Duke not to do so; and the consequence was, that he did not arrive in this country. There was, however, another instance of interference, but of a different description, at this place. It was a circumstance fresh in their Lordships' recollection, that this refusal to suffer a witness to come over in favour of the Queen came from the very same quarter which employed the agency of two ministers, and two ambassadors, to compel the woman Kress to come to England. Thus, as he said respecting the memory of the first witness, the operations for procuring evidence appeared to run all one way. Again, her Majesty saw a palace at Zastrow which she wished to occupy. No objection was made by the Grand Duke at the time, but, on the contrary, to such a point had the negotiation arrived, that the very same Chamberlain of whom he had already spoken, and who, if called, might have proved the fact, had gone the length of purchasing furniture to equip this palace. When the affair was in this state of forwardness, a notification was given to the Queen that the residence of her Majesty would not, perhaps, be agreeable to this court; and, on that account, the palace was refused. A fact of so important a nature ought never to be lost sight of when they heard complaints made that her Majesty did not take up her residence amidst polished society—that she did associate with people of her own rank—that she was not seen moving in a circle of her natural friends—that she did not frequent those places where she best might be expected. Surely treatment such as this was calculated to drive her out of society. He now came to another point. It was not an immaterial fact in our view, and indeed in every view of the case, that some information should be given, some evidence produced, as to the conduct and character of Bergami while the servant of Gen. Pino—that being, on their Lordships' minutes, the service in which he was prior to his becoming one of the suite of her Majesty. An application was, therefore, early made for the attendance of General Pino. Some communication was made on the subject to the Austrian government, in whose service he was; and, in consequence of that communication, an intimation was given to him, that if he came to England, he must not appear in uniform. This seemed to him an odd sort of intimation; and lest there might be some mental reservation behind, he inquired whether, if he came to England, he would lose his commission? To this no answer was given: the General had not come to England, and, he might add, that he would not come. Now had they not a right to complain that all the evidence on both sides (for both the parties

(as the Attorney General had wisely stated when he opened the case, would be produced) was not forthcoming? Was it without a cause that her Majesty's counsel represented to their Lordships, that a rigorous demand was made for every witness that could be produced on the other side, while the greatest difficulties were thrown in the way of her Majesty when she endeavoured to obtain evidence? Did not those plain facts come powerfully in aid of those general observations that had been made on the manner in which the case before their Lordships was got up? Did they not furnish a powerful argument in support of the accused party? He trusted their Lordships would be of that opinion. But the matter did not rest merely on these particular points. There were other persons who refused to come. There were some physicians, and, he understood, some lawyers (he dared say there were enough of the latter to mind the things that were, extremely well), who would not come to this country—persons whose appearance they wanted—but with respect to whom it was impossible for his Majesty's counsel to tell, till they came here, whether they would make use of their evidence or not: they, however, were prevented from attending by the interference of either our high or low alliances. He thought it necessary, though out of his intended course, to commence with this statement, in order to make it auxiliary to the triumphant address of his Learned Friend, and instrumental to the support of that argument (if, indeed, any argument remained, after that most eloquent and most able speech to which he had alluded), which, at the expense of their Lordships' patience, he felt it necessary to lay before them. Before he came to make a few observations, in the shape of an appendix to the case, in its more extensive features, he hoped their Lordships would indulge him while he made one or two general remarks on the case for the defendant. If, as was the adverse supposition, the present was a case of open, undisguised, notorious guilt—and, because open, undisguised, and notorious, derogatory to the dignity of the crown, the government, and the kingdom itself—if this were the fact, he would ask how it was possible that it should remain so long without being proved. It was admitted that things were susceptible of short and easy proof, on account of their notoriety. If a man assassinated another at mid-day, in Charing-cross, the probabilities, he thought, were, that he would speedily be brought to justice. It was the commission of the act at night, and in secret, that rendered it the subject of long and laborious inquiry. How did it happen, if, as the preamble of the bill assumed, this was a case of notorious publicity, that the adverse party should be driven to make use of such witnesses as they had produced—witnesses certainly of the most willing description, though some of them de-

clared they had not been paid, and others asserted that they expected nothing? Why had they recourse to individuals, some of whom were only skilled in the topography of bedrooms, whilst others were in the habit of peeping through crannies, or specryphal and doubtfully existing key-holes. Of this description was the witness from Trieste, who, he was disposed to think, from his appearance, and from what he had stated, had been for a season from the visitation of justice, in order that he might be ready to give evidence here, and with his talents to support the prosecution. He hoped, however, that he would meet his reward—and he certainly would, if a legal proceeding for perjury could have that effect. If, as had been assumed, this was an open, an undisguised case of adultery, whence was it, he begged to know, that with the exception of the single instance spoken of by De Mont, in that ever-memorable appendix to her testimony—the third edition, with various corrections and emendations—whence was it, that, with this single exception, not a syllable had been brought before their Lordships of that species of evidence (he alluded to the state of the bed-linen) which, in nine instances out of ten, obtained in cases of criminal conversation? In fact, such proof was not only generally given, but it was seldom or never omitted. How was it that the whole of this sort of proof, with the exception to which he had alluded, had been excluded from the case? This was a very important feature in cases of this kind—it was a point that was always much relied on—it was constantly urged for the conviction of the accused party. If evidence of such a nature existed, it would doubtless have been brought forward in order to convict the Queen; but there was an almost total silence on that part of the case. This was the more extraordinary, as the adverse party were in the possession of a witness who was in the service of the Queen for the first two months of this supposed perverse and profligate connexion, and who must, therefore, have had the best opportunity of giving evidence on this point, if any foundation existed for it. The individual, Ann Seising, to whom he alluded, was present during the very hey-day of this passion, when it was more likely to show itself with violence than at a later period; for it was a maxim, that, when the mind of a female took a direction similar to that imputed to the Queen, it manifested more violently at an early period than afterwards. But not only was no such proof afforded by Ann Seising, but, strange to say, she was not even called. There was no difficulty in procuring her testimony; she was in this country; she was placed in Cotton-garden—that garden of innocence—which, as the Attorney-General had stated, was not only exempt from crime, but was so holy a sanctuary that even the imputation

of crime could not possibly take place there. There she was; she had been placed in the ranks at Cotton-garden; and, if the Counsel in the other side had thought fit, they might have examined her; but they did not, they dared not call her. Whence, he would ask again—whence proceeded all this delay? Why was it, he begged their Lordships to consider, that, in a case which bore an immediate analogy to high treason—which, in one point of view, according to the highest authority in the law, was high treason—and which was stated, by all, to be high treason, if it had not been for the accident of the country of one of the parties implicated:—why, in such a case, was there so long a delay in bringing forward those charges? Why was a time suffered to elapse, which, if it had been a case of high treason, would have formed the ground of instant acquittal? For by the statute of William, as all their Lordships knew, if, in a case of high treason, three years was allowed to elapse, the provisions of that statute interposed, and a prosecution of that description would be prevented. Why, then, he repeated, if those facts really existed, were they allowed to slumber so long? Was it not a daily remark, that it was a fair matter of imputation against any proof if that proof had been allowed to sleep for any considerable time? Could it be pretended, could it be said, (and he wished to touch this part of the subject as tenderly as possible,) that it was immaterial to this nation, that to the morals of the nation it was a matter of no moment, what the Consort of the first Magistrate of the State was doing abroad? It was true, she had no active power—but she was the representative of the Royal Court—she was the Consort of the then executive Magistrate of this realm. During the whole of these last three years, which had been untouched by the evidence, could it be pretended that it was immaterial to the honour and dignity of the country to know what had been done, or what was doing, by the Consort of the eminent and illustrious individual who at the time was all but seated on the throne, and who, though he did not then wear the crown, performed all the functions of royalty? Where then was the excuse for delaying the production of proof? Would it not be by-and-by surmised—if it were not already abundantly surmised—that it was not what had been done in Italy by the Queen that caused this prosecution, but that it was her coming to England which gave rise to the charges contained in the preamble of the Bill; and that it would be well, if instead of that somewhat tedious and verbose description of those proceedings, which were supposed to be derogatory to the honour of the crown and the interests of the country, the preamble of the Bill had run thus:—“Whereas it has pleased her Majesty to come to England, be it therefore enacted,” &c. He was not much in the habit of

drawing up preambles of this nature; and therefore, his Learned Friend, who had more experience in matters of that kind than he had, would excuse him if his language were not sufficiently formal and technical. If there were no good reason, in law, in sense, or in propriety, for withholding this charge for a period of three years, while the matter of accusation existed—when persons had been sent abroad to watch the Queen's conduct—when Baron Ompteda was at Rome, ambassador from Hanover, for the first time; if, under these circumstances, all the points of crimination were known, but not inquired into, he submitted that it must operate powerfully in favour of that case of which he was the humble advocate. The single fact, that, with a knowledge of the alleged criminality, the charge had slept for three long years, must make a deep impression on every unbiassed mind. It was for the opposite party to explain the cause of this delay—it was not for the accused to account for it; and if there were good grounds for that surmise to which he had just alluded, if the conduct pursued by the opposite party were not mere matter of suspicion, but of well-grounded opinion—it went mainly to shake the evidence adduced before their Lordships. He had already mentioned the single exception that was contained in the evidence on the subject of stains. That exception was to be found in the testimony of De Mont. Since yesterday he felt more particularly that he ought to make some remarks on this point, and he had prepared himself for that purpose. He must, therefore, trouble their Lordships with part of the examination of the witness De Mont, that they might see how she improved gradually in her evidence. Their Lordships would find, at the bottom of page 250, the following questions and answers:—

What observation did you make on the large bed?—I observed it had been occupied.

Can you inform their Lordships more particularly of the state of it?—I cannot.

Was it much or a little deranged or tumbled?—Not much.

By this question the Solicitor-General evidently meant to point to some fact or other, instead of having general statements, which might be construed as having reference to one, two, or a dozen persons. Some time afterwards, before she came to the story of the stains, the Solicitor-General put somewhat of a leading question to the witness. He did not ask about the being tumbled or deranged, or any thing general, and by which means he ought to have elicited the fact he wanted to come at. In order to procure the information he sought, he asked—page 252—

State what was the appearance, on the second night, of the great bed—whether it had the appearance of one person having slept in it, or more?—More than one person.

On this amended question the witness, who had not before adverted to the circumstance, declared that the bed seemed to have been occupied by more than one person. The next question was—

How was that bed on subsequent nights? had it the appearance of one person having slept in it, or more than one person?—I have always seen the same thing.

Again, in a subsequent stage of the proceedings, when a Noble Lord, in the course of his examination (page 362) asked more particularly about the bed, a new fact was elicited.

State (said his Lordship) distinctly what was the state of that bed?—The bed-cover was extremely pressed down in the middle, and there were things on the bed I had never seen before.

What were those things?—Large stains,

So that the third edition came out with large additions. Each time there was an improvement in her evidence; it was strengthened and enlarged; but it was not until the third edition came out that it was complete and perfect. When they were on the subject of a witness mending and strengthening the evidence, he did not think a much more conclusive instance could be given than that which he had quoted. In the first instance, De Mont proved nothing: she tried again, and came nearer to the wished-for point; but at last, after a little consideration, she made her evidence quite perfect. It was extraordinary, when her attention was immediately and directly called to the state of the bed, when she was first examined, that she recollected nothing whatsoever about stains. There was another instance of the same kind in the evidence of De Mont. On the first occasion when she spoke of Bergami being in the passage leading to the Queen's bedroom, she said nothing whatsoever of hearing any door being locked: but when she was examined afterwards on the same subject, then, and not before, she stated the very important fact, that the door of the bed room was locked the moment Bergami got in. He mentioned these incidental points as a confirmation of the arguments that had been addressed to their Lordships, on the preceding day, by his Learned Friend and himself. He would now proceed to call the attention of their Lordships to the direct facts, or rather acts, on which the adverse case depended, and state in what manner they proposed, and hoped to meet, those facts. Surely the preliminary matters which he had stated to their Lordships would at once account for its being extremely probable that her Majesty's Counsel would not have all that proof, in favour of the Queen, which they believed, and indeed knew, to exist. If power was exercised to procure evidence against her, and if the same power was exerted to keep witnesses from hasting to

her assistance, hard, indeed, was her situation, and manifold were the difficulties with which she had to contend. In addition to this, he was certainly in no condition to state the evidence on behalf of her Majesty with all that precision and detail which might be expected from the amply-stored, and well-prepared, well-concocted brief, of his Learned Friend, the Attorney-General. Surely, from the sundry examinations abroad and at home (and not only had the witnesses been examined before, but two of them, contrary to all precedent, had been sworn): but surely, from all the preceding examinations, his Learned Friends on the other side had every means of knowing clearly what case they could state, and what witnesses they could bring to prove it. On the part of the Queen there were, on the contrary, no time or means for having the evidence called and arranged; it must be brought forward necessarily without that full preparation and arrangement which the other side ought to have made. It was true that if the Queen had pleased to ask longer time, undoubtedly longer time would have been allowed. But he could state why her Majesty could not have asked longer time. Her Majesty had patience—her patience had been tried. Abundant opportunities had been given to exercise her patience. Her Majesty had fortitude. In the course of her life she had found it necessary to exercise her fortitude; but the Queen, had not patience, she had not fortitude, to let the case slumber in an unjudicial unphilosophical balance, with all on one side and not a single comment, not a single reply, not a single remark, on the other. Therefore the Queen could not allow the case to stay so. Therefore the Queen's patience and fortitude, great as they were, could not allow all the charges, evidences, and insinuations to go forth on one side, and no antidote with them; and he knew not that there was any one who had fortitude enough to blame the Queen for this. But these observations he made only to show that it was not to be expected that he could give the same regular systematic detail on her Majesty's part which ought to have been given on the other side after a preparation of three years. On the other side they had had the power of choosing their time; they had the means of selecting their opportunity. Time, opportunity, and influence, they had been able to command, adequate to their situation. But, notwithstanding this disadvantage, he would now proceed, by allusion to particular branches, which he would mention shortly; he would show the case which they were prepared to make out on the part of her Majesty. In going along he would first remark what the adverse case was, and what they were ready to prove in order to meet that case. First, his Learned Friend (Mr. Brougham) informed him that he had not discussed largely the evidence connected with



the palace, but had passed it over in consequence of the arrangement that had been made—that he should only state the general case, and animadvert on the evidence which had been adduced. But, of all the parts of the adverse case, this was the very fittest, the very best, the very pleasantest for commentary. His Learned Friend, too, reminded him, that on a former day he had touched this part of the case by his remarks on the evidence of the master and mate. There was no part of the case on which he was more willing to enter; none that he was more happy to grapple with and to meet. If any supposed that this part had been industriously omitted, the contrary would presently appear. No part had been more pressed and observed on than the bath. According to Majochi's evidence, that bath had been in the cabinet of the Queen, where the Queen and Bergami were while Majochi stood at the door without. De Mont had not confirmed Majochi in this statement; she said the bath had at one time been used in the dining room, and of other times she said nothing. Not only, therefore, was her evidence not confirmatory, but it was virtually, as the case was considered so important on the other side, a contradiction of Majochi's evidence. But the bath, in point of fact, was a tub, being the only kind of bath that could be had on board a ship. The cabinet was small, so that so far from taking the bath into it, what with the bed and the furniture, it was impossible for the tub to be placed there at all. If, then, it was a physical impossibility, that must amount to a contradiction. He thought no better contradiction than the laws of nature could be given, and such a contradiction might do well against such a witness as Majochi. The whole of this, then so industriously misrepresented, their Lordships would throw to one side, as an infamous, false, malignant traduction of the Queen, if they should find it proved that the tub could not be introduced into the cabinet. In page 93, the witness, he believed Paturzo, swore that when Bergami had changed his sleeping chamber, it was quite possible to see the Queen from one bed to the other, and lying in bed. To that a peremptory contradiction would be given; and it would be shown, that the situation of the rooms and beds was such as rendered such a view from one bed to the other impossible. There again, then, was a contradiction. Again it had been sworn that Bergami had changed his bed, and an inference was made from that circumstance against the Queen. Let their Lordships mark how plain a fact put down this inference. At Tunis a surgeon had been taken on board. No room could be given to him according to the arrangement which had previously existed. Therefore, without communication with the Queen, without her knowledge, without any arrangement with

her, that change was made of Bergami's bed room; so that this circumstance malignantly as it had been directed against her Majesty, fell down before the fact.—Another circumstance strongly urged, and apparently much relied on, was the sleeping in the tent. This tent had been within half a yard of the steersman, who was always on the spot. Why had not the steersman been called? Why, if Majochi told the truth, and heard while he lay below, the noise to which he needed not refer in fuller terms—and which noise, by the way never could have been heard in the agitation and motion of a vessel at sea;—but if Majochi told truth, and heard this noise while he lay below—not asleep, for Majochi was not stupid enough to say so—but, if he heard it awake, surely the steersman must have heard it. They would prove that the crew were at that part of the vessel at all hours. They would produce an officer who had charge of the vessel, and who would state to their Lordships, that the Queen used to put questions to him, at all hours of the night respecting the progress of the ship, the weather, and similar subjects, and that he, without fear, apprehension, or warning, used to take up part of the curtain and to give answers to the questions asked. The Queen did not sleep there undressed, as is usual in bed. It was an awning, and she slept with her clothes on. He believed—when he made use of that expression he begged not to be understood to feel any doubt or hesitation—but it was not possible for him to be so well trained and tutored as the Learned Gentlemen on the other side ought to have been, and therefore he could not know so thoroughly what the evidence really was;—but he believed that it would be proved to their Lordships that the communication between the tent and below was constantly open.—On several nights during the voyage it would be proved that Bergami had not reposed there at all; but that the Queen herself, after some untoward accidents that had happened, and some attempts at surprise in Italy, reposed no where without some person to protect her. He fancied that the evidence, in this respect would show, that when she slept undressed and in bed, the person guarding her Majesty was at the door, or in the adjoining room; but that in other cases, when her Majesty reposed in a tent, and with her clothes on, that person was in the tent. Suppose any part of this true—suppose any fragment or fraction of it were proved—what then became of the evidence of De Mont and Majochi, respecting the bath and the tent? Why, of 28 men on board, had none been called? Above all, why had not the steersman been called to state what had actually taken place, in confirmation of Majochi, a discarded servant, and of De Mont, a discarded, ungrateful, malignant, female servant? He begged now to call their Lordships?



attention to the evidence of transactions at Naples; first, respecting the night, the very night, when, from her Majesty's agitation and alarm, it was supposed the commencement of adulterous intercourse was made. Respecting the opera-night—that night so fatal in the transaction—De Mont swore that the Queen retired, agitated of course. De Mont was there quite safe; she swore to agitation which no other person saw, and to which the person alleged to have been agitated could not bear testimony. There the Queen was agitated—there the adultery commenced. So it had been opened by the Attorney-General—so it had been described by the witness—and so it had been summed up by the Solicitor-General; but that night, fortunately had been a remarkable night. That was the night when the King of Naples and his Court were witnessing the opera. For the Queen a state box had been prepared. There she was regularly attended by appropriate attendants, who remembered well the night, and their attendance there. From the length of time they were obliged to stand, the amusement of the opera had not compensated for the fatigue of attending, and they well remembered that they attended till the opera ended, and that that did not happen till 1 o'clock in the morning of the night known in the evidence as the opera-night. So much for the earliness of her Majesty's return. According to De Mont, the Queen had not a bed that night, or, in fact, did not sleep that night, and indeed during the whole time she was at Naples. Where her Majesty slept De Mont must be called back to tell them. But he would supply the deficiency of her evidence as to where her Majesty slept that night. The night was not only remarkable for the King and his Court attending the Opera, but for a storm which threw open the casement of the Queen's room; and he would call a witness who had been called by the Queen to shut it, and who would prove that the Queen was then in bed. What, then, became of this notable adultery on that fatal night, when he knew not what conscious stars witnessed the deed—and of the agitation, and he knew not what other indications of approaching ruin? He would not waste time by commentary on this part of her Majesty's case; it was a peremptory contradiction. His Learned Friend had opened that William Austin, a boy of 6 years of age, was, just to meet the occasion, on that very night, withdrawn from her Majesty's room, and for that very purpose. What would their Lordships say of this charitable and honest construction when they found that a boy of 13, and in the climate of Italy, had been some time before represented to the Queen to be of an age that rendered it proper that he should be separated; and that he had been separated before that night, when necessity did not make that impracti-

cable? So much for the removal of a boy of 6 years of age—and on the adultery night and of the injurious interpretation on the conduct of the Queen on that occasion. Another part of the evidence hardly deserved any reply, but they would not leave the case short in any one part, till the witnesses on the other side were totally contradicted. The part he now alluded to was the alleged indecency of her Majesty's dress when she represented the Genius of History. The occasion was the celebration of Murat's victories. A Duchess of Murat's Court, and another lady of high rank and of Murat's Court, performed parts in this representation. So far from her Majesty's dress being indecent, as De Mont had sworn, according to the opening, it was particularly grave and decent, covering her person up to her chin, and covering almost the whole arm. The character which the Queen sustained was of a modest, severe, and simple kind. The Genius of History was

“Sober, stedfast, and demure,”

and naturally such in other attributes, as Milton described another imaginary personage. It was not a fanciful, wild, and fantastical person that was to be represented; it was not the laughter-loving goddess, who was generally represented open and exposed in a considerable part of her dress. From the nature of the character, therefore, and from memory, a positive contradiction would be given to this part. He would now proceed to take another instance. Their Lordships would now call to their recollection the circumstance given in evidence as having occurred at Carlsruhe. Even as that stood at present, it was rendered impotent, when they considered the interference that had taken place for the prosecution and against the Queen. He alluded to the subtraction of a witness, whom the Queen desired to attend, and who was compelled not to come at the Queen's desire. Yet, although this interference was used to deprive the Queen of evidence, truth was not here without a witness. In page 188, their Lordships would find the evidence of Kress, who fixed the time between seven and eight. In contradiction, they were able to prove the dining of the Princess and of Bergami abroad every day they were at Carlsruhe. On one day only, when Bergami was dining, he believed, with the Grand Duke—but that was not material—but he retired, from where he dined with the Queen, unwell. Some music was afterwards given by the Grand Duchess, and the witness who would be called remembered it well, from having taken part in the musical performance. The Queen was there, and remained there two hours after the departure of Bergami. It would also be proved that, when she returned, Bergami was up and well, having had but a slight indisposition—a head ache he believed. This

completely covered the time Kress spoke to; and the dress and appearance of Bergami which would be proved by the witness who accompanied him home—and his dress on the arrival of the Queen, the proof of which did not rest on one witness only, for two witnesses would speak to that fact—these circumstances completely met the evidence of Kress. The witnesses to be produced for the Queen upon this point, speaking to facts with perfect recollection, were sufficient; above all when they were able to produce evidence respecting Kress, which would render her not fit to be believed upon her oath. In these circumstances, the witnesses they would call would satisfy their Lordships that the evidence of Kress was not only not sufficient to deprive the Queen of her dignity, but utterly insufficient to deprive a sparrow of a feather of his wing. But thus would their Lordships find every part of the evidence either contradicted or incredible, on the testimony which supported it. He now wished to direct their attention to pages 301 and 302, for the evidence of Bergami's return to Charnitz from Inspruck. There again was presented proof of adulterous intercourse, according to the opening of the Attorney-General, the summing up of the Solicitor-General, and the examination in chief of De Mont, although she fell off somewhat in the cross-examination, at page 368. Proof of adulterous intercourse was to have been established from the intercourse on this occasion in respect of the bedroom, and other respects, whereby, he supposed, was meant eating and drinking; for all these circumstances were necessary in decking the case against the Queen of England! They were in a condition to prove the time of Bergami's return when the Queen was indeed in bed: but she had all her clothing on; and there was good reason—there was severe frost, and the wretched inn was shut up with snow. A witness whom he would call returned with Bergami from Inspruck, and continued with Bergami for two hours afterwards, preparing for the departure of the Queen and her suite. This witness had been during that time more than once in the apartment of the Queen, communicating how they were proceeding with the preparation; and by the appointment of Bergami, who was engaged in making the necessary preparations. That injurious statement which was founded on the circumstances here—the imputation attempted to be cast upon the Queen—the insinuation of the shadow of a fact—all would fall before the facts and evidence which he verily believed they would be able to furnish to their Lordships. The person to whom he had alluded was the best witness to the transaction, from the circumstances of having been engaged in the preparation. But they were able to produce not less than three others to the facts, in refutation of the adverse im-

putation. He would now call attention to another fact respecting details of evidence, which it was lamentable to see gone forth to the people of this country. It was in page 438 of the evidence. Sacchi, Sacchini, or whatever name he chose to be called by, was the author of this evidence. He alluded to the memorable journey to Senegaglia, when this witness described his drawing of the curtain, and seeing the indecencies which he (Mr. Williams) would not mention more particularly. Three times over had Sacchi, according to his testimony, seen those indecencies. It was thought necessary thus to make assurance doubly sure. Now, in the first place, it would be proved that the Queen travelled in a landau, and that there were no curtains to be drawn belonging to that carriage. In addition, it would be proved that in that journey Sacchi was not the courier, or the person whose office it was to do the duty which he had so minutely represented. There was indeed a spring blind, but not a curtain, and it could not be removed by a person on the outside. Another person, who well remembered that journey, had been the courier on the occasion, and the witness would state to their Lordships his reasons for remembering it. Many witnesses would speak to this part of the case, and prove that the person to whom he alluded was the courier. He did not waste time in commenting on this contradiction. If Sacchi was not there, he saw not what he swore he had seen. If there were no curtains, Sacchi did not draw them. He would further be enabled to prove the falsehood of this testimony by the presence of a person who had been in the carriage on the journey, and who would negative the statement of Sacchi, so far as that was possible in such a case. Their Lordships might again remember that De Mont, in page 293, spoke of the bedroom of the Queen being changed in the Villa d'Estré. Of course all was for the same purpose—all was for the purpose of adulterous intercourse—every act and every change was marked with that tendency. If her Majesty had a smoky bedroom, to change it was of the same tendency. Nothing was done but some injurious imputation was raised from it. It would be proved that the bedroom used by the Queen had extensively annoyed her with smoke in the winter season; that on that account it was necessary to provide another apartment for the Queen on the occasion alluded to; and that that was done accordingly. This, however, she changed, to avoid the inconvenience of having to go to the very extremity of the house, from the sitting apartments usually occupied by her Majesty, this room selected being closer to those sitting apartments. The result was, that her Majesty, in going from that other substituted apartment to the sitting-rooms of the Villa d'Estré, had to make the tour of the

whole house. To avoid this inconvenience, not a new door—(for that was the gloss which had been put upon the matter by the other side)—not a new door was made; but an old door rentred, in order to make the access to the other apartments some ten times nearer (as he was informed) than it would have been by the circuitous route to which he had alluded. This was the plain history of the change of the apartments, upon which he should not have troubled their Lordships, but that the evidence which had been given on the point had been stated to be all corroborative of the charges stated in the preamble of the bill. There was another fact, which he believed it was necessary he should advert to; and that was, the bathing in the Brescia, detailed in the evidence of Antonio Bianchi (p. 398). Their Lordships might remember that it was a very considerable time before anything could be made of him; he could not, in his answers, make out where the bathing was to be; whether in a pool or a mill-dam; in water or on land; or in what other situation. He was, indeed, in main confusion throughout the whole of his examination; and not without a cause. Now it turned out that the scene of this bathing was laid in the Brescia; and he (Mr. Williams) understood it would be distinctly proved that the Brescia was altogether a mountain stream; that is to say, that in dry weather there was no water at all; and in the rainy season it was so swollen as to render any bathing in it pretty much like bathing under London-bridge at low water. Bathing would be about as agreeable in wet weather as it would be at low water under London-bridge, and, in dry weather, about as possible as it was to bathe upon the bridge. This, he was sensible, was really not a part of the evidence upon which he ought to trouble their Lordships, thinking, indeed, that the fact, if true, did not merit the taking up of their time. However, as it formed a part of the matter of the preamble; out of consideration to those alarming and significant words in which it was couched, he had chosen to open this part of the evidence.—There was one thing more to be noticed; and, after that, he did not know [that] he should have to trouble their Lordships with any other point. Their Lordships must see, that he (Mr. Williams) had all along taken facts, not constructions; that he looked at the acts charged, not as detailed parts of them; that he had not selected minute portions, nor particular bearings; but that he treated the facts and circumstances charged according as they were made out by the evidence of this person or the other. This was a matter which he was induced the more particularly to mention, because this was one of those parts of the evidence upon which his Learned Friend, the Attorney General, assuming it to be entirely

true, had ventured, (and wisely ventured, in that belief) to throw out a challenge to him (Mr. Williams's) Learned Friend; they had accepted that challenge, and were intent to try the question of the veracity of a witness, in whom the other side so entirely confided. In page 323 of the evidence, in the answers of the mason, Ragazoni, their Lordships would find that antediluvian scene of Adam and Eve, which they would remember, no doubt. He need only allude to it, at any rate, in order to recall it to their Lordships' recollection. They would find, at page 323, that this honest person described himself to have been working in a grotto, and upon a cornice in a round room; and very lucky it was that he had happened to condescend to give their Lordships these particulars; for the place of those statues of our first parents had certainly two positions. At one time they were in the house; but that applied, of course, to the garden. If he had been speaking of the house, and meant that he was working at the cornice in the round room, this honest man had represented himself to be in a place about as convenient for seeing a hat passed with regard to the statues as if he (Mr. Williams) should take his station in St. Paul's Cathedral, for the purpose of seeing what passed in their Lordship's House. One was not more convenient than the other. While Bergami and the Princess were in the grotto, (or rather, in a portion of what was called the grotto), this man said he was at work upon a cornice in a round room. There was a round room adjoining this too; another and another. So that, if Honesty was at work at all, he could not look into them; the Adam and Eve which stood in the grotto were just as much out of sight as their Lordships' House would be if he (Mr. Williams) were situated in the way he had just mentioned. When he observed that this would be shown in proof, it did seem odd that they (the Queen's Council) should have been so challenged by his Learned Friends, even if those Learned Gentlemen supposed, as they might fairly suppose, that this man would give no calamitous evidence, of which her Majesty's Counsel might get hold, and avail themselves. The challenge, however, had been given, and it was accepted. They (the Queen's Council) should prove to their Lordships that Ragazoni could not see what he had deposed to have seen by the laws of optics—by the laws of nature, rather—and consequently that the testimony he had borne against the Queen of these realms was false, foul, and malignant. Was he not wasting their Lordships' time—was it not almost an unnecessary observation—when he said that if any portion of this evidence was satisfactorily disproved, it being one of the ingredients of their whole case—a case which was most peculiarly circumstanced with reference to its coherence and integrity (for it

ought to cohere; and to be entire—more than cases in general) it must fatally affect the remainder! Here was a case where the witnesses had been most peculiarly, he might say, most unusually treated, too; a circumstance which must weigh with their Lordships. They had not been sent over without the licence, the authority, the “*imprimatur*” of the Milan commission; were had been sent without having the stamp of that commission, without bearing the impress of the mint there; and then they had been kept and held together in a manner such as was never known with any other witnesses of whom he had ever heard. Having been sent over from Italy, they were caged and cooped up altogether, in a most unusual way, as if there was an official impression of some kind set upon their faces, or their backs, for he knew not which. The impeachment, therefore, of a part of such testimony, was of much more weight and importance than in general and ordinary cases. But these were not mere straggling transactions to which he had been alluding: they were not mere detached parts that were affected: but the whole foundation of the case on the other side. He did not deal merely with the outside—the exterior surface; but that to which he had solicited their Lordships’ attention cut off the “*succus et sanguis*” of the case, if it was a case at all. If they found a witness in one part of his testimony wilfully and solemnly deposing to a false fact upon his oath, what man could believe that he would truly depose in another part? A story or narrative was usually and frequently made up of the evidence of many persons. One person, he would suppose, went to one quarter, and, at his return, said he had learned so and so; another individual in another place, was informed of other particulars; and a third party, in a third place, was informed of more. Now, in such a case, any part of these accounts being cut away, the others might still remain, and those portions of the narrative might be received. But the veracity of a man was another thing; and if that were shaken in any part whatever, who was to stand up and say, “here is falsehood, malignity, calumny, and perjury on one part!” Who, he asked, was to draw the line and to declare, “so far this man is not to be believed; but, in the other part of his testimony, this and that, and all here, is sound and veritable.” In human affairs this was clearly impossible. No man could draw that arbitrary line; the veracity of a person being impeached in one part of his testimony was impeached through the whole. They could not separate it. It was a shaking of his testimony from first to last. According to this test it was, that his evidence was to be considered; they must take it to be good because unimpeached, or reject it as bad, because impeached. There was no medium, as upon this subject, in human affairs; and there was none in judicial proceedings,

civil or criminal. Their Lordships must also bear in mind, that it almost always happened that any fiction, which was meant to operate to the injury of a person, was not merely a fiction; but was the grafting on a story—of which one part was true, and the other false—that malignity, which only the fiction could support, and which it was the object of falsehood to establish. This was, at least, true generally; and was there anything in the present case from whence it might be inferred that there was a way building upon a substratum of fact all that malignity or enmity could devise, without having recourse to fiction? Their Lordships, he need here hardly remark, would all recollect that the scheming chambermaid, who had been examined at their bar, kept a journal of sundry events and transactions occurring during her residence and connexion with the Queen. This record was kept during her moments of veracity; and in it their Lordships had seen how (and very justly) she had lauded, extolled, and glorified that generous and gracious Mistress whom she had since perfidiously calumniated and betrayed. These facts which she had written down, furnished, eventually, a very proper foundation for that superstructure of falsehood upon which the present charges had been raised. There his Learned Friend, the Attorney-General, might find all the assistance he needed upon some points; the date of her Majesty’s journey—the periods of her returns. If this were true, as it was—or if that position for which he had been contending was untrue—how came it that this refugee to the Queen, this savior to her beauty, had quitted, for seasons he-t known to herself, the home which had received, and the Queen who had protected her; and with the assistance of another person, of equal character, but perhaps of less ingenuity, had proceeded to adapt, to garrison and unbounded facts, facts of foul falsehood and calumny, and of the utmost prejudice to the Queen? When he heard the adverse case torn in pieces, as it yesterday had been by his honourable and Learned Friend (Mr. Brougham), in such wise, that, to his mind, (although he (Mr. Williams) as an advocate—and, thank God, a zealous one he was for her Majesty—might not feel impartially in the cause, perhaps) that case was shaken to distraction by the powerful argument and language his Learned Friend made use of on the occasion; he had been almost tempted to cry out, in the words of that impassioned explanation of Cicero,—“*O magna vis veritatis, quæ contra hominum ingenia, calliditatem, solertiam contraque fœtus omnium insidias, facile per se ipsum defendit!*” But when he saw, that after the lapse of so much time, when the memory of persons might have failed them, and time itself have cast its mantle over many important occurrences—when he saw the expectation, which



was apparent, of so much being proved—then did he hesitate to confess in that declaration, although it proceeded even from Cicero; and then did he feel, with his Learned Friend, the Queen's Attorney-General, that the issue of this great cause must rest with Providence, who ever effectually protected the innocent as it were with a shield, and whose gracious help did most wonderfully sustain and defend the desolate and the oppressed. He should now cease to sum up the evidence on behalf of her Majesty, by reminding their Lordships of two of the witnesses on the other side—two arrows from the quiver of his adversaries. He should call on her Majesty's behalf two witnesses, Captain Peckell and Captain Briggs; the only two men (he meant no national reflection in saying so) upon whose testimony their Lordships could, with the utmost confidence, with the most implicit reliance, beyond all shadow and manner of doubt, place their hands upon their hearts and say, "This is the evidence which we can implicitly believe." Captain Peckell, with the honourable candour of a man and an officer, and although not without some slight grounds of offence existing between himself and her Majesty, spoke nothing against the Queen. The other hon. and gallant officer, Captain Briggs, spoke decisively for the Queen. Now, if the alleged attachment of her Majesty was, indeed, this violent, obstinate, and insurmountable passion, if it was one that could not be concealed from eye-witnesses, and those by twenty at a time; if it was one that must be gratified in market-places, or on ship-board, that was then in the height of its inflammation—he would ask, upon these suppositions (that is, if the case on the other side were true), could nearly three weeks together have been passed on board the Majesty's ship the *Leviathan*, and nothing of this at all have transpired? The adverse impression, and the supposition of the domineering passion under which the adverse counsel placed the Queen—and the absence of all proof which such an occasion required, namely, proofs strong as those of holy writ, such as would satisfy their Lordships and the people of England, and such as might have been had if they existed—spoke volumes. The proofs in favour of the Queen, on the other hand, spoke in the language of complaint before their Lordships. What system was this? Were they not daily hearing, and hearing in the shape of lamentation and complaint, that there existed in the country at this time a turbulent, and insubordinate, and every now and then, "ever and anon," it was said, a treasonable temper, also, amongst a no small portion of the people? Did they not know it to be asserted, was it not perpetually rung in their ears, "that the laws were beheld with contempt in their execution, and with disgust in their execution?" And they not moreover hear, almost

in the language of a writer to whom he had just alluded, and who had applied that very description to this country just half a century ago, he meant Mr. Burke, the same complaints which were then prevalent, and upon which he observed, "that the country stood rather in need of reformation than of support?" Did they not hear it deplored now, as it was lamented then, that rank, and office, and title, and all the solemn pleasantries of the world, were falling into disrepute? Was all this true or not? If it were true, what were they now doing? Was the principle of incapacitation to be confined to the other sex? What was it, he repeated, that they were now doing? He did not say that their Lordships were casting a legislative measure of a doubtful import; a formal measure, which might be possibly, but feebly and lately, injurious; but which might also be greatly advantageous, and for which, therefore, some penalties should be endured, but they were casting a lighted and burning firebrand, of no other than an anti-monarchical quality, into a magazine filled with materials ripe for combustion and explosion. Such would be the fatal catastrophe if this demoralizing and dethroning investigation were pushed to its utmost extent: and that, too, upon such evidence as had been adduced at their Lordships' bar. It was not for him to answer these several questions. He would put the subject no further to their Lordships: but that their Lordships according to, and complying with, he would not say—but not disdaining the precedents of those great judges to whom he had alluded—who looked, by their conduct, to the interests of posterity, and who, it seemed, were of the same mind with the universal feeling cherished by the people of the country—that their Lordships might by such means assuage heats, remove animosities, and haply, by great good fortune, even yet maintain the peace and prosperity of this great empire—was the second wish that animated his heart. The first was, since hazards were incurred and consequences had been neglected, that, at whatever hazard and with whatever consequences, the cause of substantial justice might triumph.

EARL GREY then rose.—Before the house proceeded further with the investigation, he wished, to call their Lordships' attention to two statements that had proceeded from the Learned counsel; and which, to him, appeared of so much and so deep importance, that he should not feel to have discharged his duty unless he submitted to them the propriety of calling in Counsel to know whether they were ready to proceed to the proof of their assertions (*hear*) He alluded to the statements made by the Learned Counsel of the means which had been used for the obstruction of evidence in favour of the Queen, which they stated to be of a most important nature. Two different instances had been



brought forward: the first relative to the Chamberlain of the Grand Duke of Baden, and the other to General Pino. He was sure their Lordships would excuse him for his earnestness upon a subject so deeply affecting the character and justice of their proceedings. The Noble Earl (opposite Lord Liverpool) had stated, on a former occasion, with that frankness and propriety which he thought generally distinguished his conduct, that whatever influence this country possessed with foreign powers, and which could be at all employed in collecting evidence for the Crown, should be equally applied, if required, for the production of witnesses in the Queen's defence. That declaration, at the time, was satisfactory to every body who heard it; and, in his mind, not more so than was consistent, as he was convinced, with that fairness and love of justice by which the Noble Earl was always actuated. In the printed evidence (page 209) their Lordships would find those questions and answers, on the cross-examination of Barbara Kress:—

Who was it that told you you should get compensation?—Our minister.

(Now this minister appeared, by a former part of her examination, to be the minister of the Grand Duke.) The examination was thus continued:—

What minister are you speaking of?—M. De Breckstett: that gentleman told me that if I would not go voluntarily, I should be forced. I told him I must be compensated for the loss of my situation; and so on.

What minister is this?—I cannot tell this.

Is he not minister of the Duke of Baden?

—I do not know whether he is minister of foreign affairs or for the interior.

Here, then, a witness, produced in support of the charges, said she had come under a compulsory threat from the minister of the power to which she was subject. She was herself unwilling to give her evidence at that bar. It had since been affirmed by counsel that the chamberlain to the Grand Duke of Baden was a witness most important for the Queen; that he was appointed to attend upon her during the time she was resident at Baden; and that was a very material witness, in order to contradict the evidence of Barbara Kress; that repeated applications (he understood the Learned Counsel to have said no less than three) had been made, both to the Chamberlain, and to the Grand Duke himself; and that the Chamberlain was willing to appear, but had been prevented, by that authority which he could not resist, from coming. He would admit that it might be right in the government to use their influence abroad for the bringing forward of foreign witnesses; but he would only beg to observe, that if that influence was used for that purpose on one side, it should be on the other. If, however, it should appear that there had been any direct influence used, or any exertion of their power

made, to prevent the Queen from having those witnesses that were material to her defence, it would be so foul and so flagrant a mal-administration of justice, that he had no doubt, whatever might be the course in other courts of justice, that their Lordships would be bound to suspend their proceedings. (*Hear, hear, hear.*) The other case was of a similar nature, and regarded General Pino. Applications were said to have been made in the same manner, and permission was asked by the General from his government to come over to England; that permission was given, but the Austrian government accompanied it with an intimation, that, if he did, he must not wear his uniform in England. This was an extraordinary reservation that it required to be explained, the General not being certain whether it would not amount to a resignation of his commission. This was what he (Lord Grey) had heard: he was sitting here only as one of the judges; and if the statement were wrong, let shame fall on those who had asserted it. General Pino, of course, could not consent to come at the sacrifice of his commission, or under any uncertainty upon a point so deeply important to him. It had, therefore, been stated to the house that the administration of justice had been directly obstructed, because witnesses had been prevented from being obtained who were necessary to the defence of her Majesty; or because the influence of those governments had extended to their subjects who had been allowed to come here as witnesses. He was sure that the first feeling of their Lordships would be, that this matter ought to be explained; and, with all proper submission, he must still suggest that counsel should be called in to state whether they were prepared with proof of the assertions made by them, and, if they were, that their Lordships should proceed with that inquiry first, before they went on further with the investigation.

The EARL of LIVERPOOL entirely concurred with the Noble Earl in thinking that all they had been doing in this case would amount to little more than a mockery of justice, if the same principle were not applied with respect to the production of evidence on one side as upon the other. Whatever restrictions or precautions might be used in the management of that business, he had no hesitation in saying, that the same principle ought to apply to each. Before he replied to the two cases cited, he felt it due in justice to himself, and likewise to his Majesty's Government, and particularly to that department with which this affair more immediately rested, to state that they had the means of proving at the bar that such had been the impartial application of the influence of Government. He relied confidently on the honour of Dr. Lushington and Mr. Nizard—and he spoke of the two persons who had been more immediately consulted

on the subject—to state, that when this proceeding first commenced they were informed, that whatever applications or requisitions they might have to make to foreign governments, they would be immediately made on application to the office of the Secretary of State. Moreover (a thing which those conversant with these matters must know was not very usual) copies of all communications so sent to foreign Courts were shown, and, he believed, were given to them. Then, with respect to the north of Italy (the most material part on account of the number of witnesses to be derived from thence) those gentlemen were informed that if an agent were appointed by them to collect evidence, this government would write to the Austrian government to request that all facilities should be given to him without the necessity of any application to the foreign powers, or even to the British ambassador. The matter was put upon this footing, because it was presumed that some agent would be necessary. The agent on the part of the crown was Col. Browne; the agent nominated on the part of her Majesty was Mr. Henry; and her legal advisers were informed that whatever requisitions he might make would be immediately acceded to. Now he stated this to show that every thing that could have been done had been done by his Majesty's government; and if any special difficulty had arisen from the circumstance of this country having no accredited agent resident at Baden, he would undertake to say that, if any application had been made to this government every exertion would have been made to obviate it. If her Majesty's counsel, instead of sending two or three agents into Germany in her Majesty's behalf, had applied to his Majesty's ministers for the removal of this obstacle, he would pledge his honour that not a single moment should have been lost in sending a special messenger to Baden. Indeed he would now promise the Learned Counsel, that if they were of opinion that the evidence of the individual in question was material to their case, two hours should not elapse before a special messenger should be sent to request his attendance. After again reminding their Lordships that no application had been made by the accuser's counsel to his Majesty's government, he stated that it was not for him or their Lordships to judge what the causes were which had induced them not to make such application: they were unknown to their Lordships, but, beyond a doubt, were satisfactory to those who had acted upon them. Still he must repeat, that if they now wished application to be made, two hours should not pass away before it was made. As to the witnesses coming from the north of Italy, he wished their Lordships to be in possession of all the instructions which had been issued by government re-

specting them, and they would then find that every exertion had been used to facilitate their passage to England. As to the reason which General Pino had given for his non-attendance, he must take the liberty to state that, from the correspondence which he had himself seen, he did not believe it to be the true one. The rule which the Austrian government had made, prohibiting any military men, who might have to appear as witnesses, from wearing its uniform, applied equally to the witnesses on both sides of the question. That order had been issued immediately after the occurrences at Dover had come to its knowledge. [Here some Noble Lord said—"It is the custom."] His Noble Friend had informed him that it was not customary for officers in foreign service to appear in uniform before any civil tribunal: whether that was so or not, was a matter of indifference to him, because any government which did not wish to have its uniform insulted would be justified in making such a rule as he had just described. But it had been stated that General Pino had thought that it would be derogatory from his character to appear before their Lordships out of uniform, and as a private individual. Two English officers, however, had so appeared, and did not consider themselves to be degraded by so doing. Indeed his own belief was that no such reason operated on the mind of General Pino as he had stated; but that some other reason did operate, which he did not choose to avow. With regard to the situation of Baron Dent, and the other Chamberlain of the Grand Duke of Baden—if, indeed, there was any other—he would again repeat, that, if her Majesty's Counsel would furnish him with their names, a special messenger should be despatched in the next two hours. (Hear.)

The DUKE of WELLINGTON made a few remarks, of which the greater part were inaudible below the bar, upon the regulations in force in the Austrian army, concerning the appearance of its officers in uniform. We understood him to say, that, even upon courts-martial in their own army, they were not allowed to appear in uniform as witnesses, lest any disgrace which might attach to them, in consequence of their testimony, might be supposed to attach to the uniform in which they were arrayed.

The LORD-CHANCELLOR then addressed himself to her Majesty's Counsel, and informed him that he was commanded by the House to ask them whether they were then prepared to prove the assertions which they had made regarding the non-attendance of the Chamberlains of the Grand Duke of Baden and of Gen. Pino.

Mr. Brougham.—As her Majesty's Counsel had not expected to be called upon to prove those assertions in that stage of the proceeding, they had not made arrangements to that effect. They were not, therefore, at that time prepared with their proof, in all

its particulars, of what related to General Pino. Part of it depended upon witnesses who were then abroad in the employment of her Majesty, especially of Mr. Henry, who was now at Milan, collecting evidence for her defence. They had letters, however, from her Majesty's agents abroad, which, in any ordinary case in the courts below, would authorize a solicitor to offer an affidavit of facts to the judges. With regard to what had occurred between her Majesty's agents and the Chamberlain of the Grand Duke of Baden, they were perfectly prepared with their proof, and were ready to offer it that moment to their Lordships; prefacing it, however, with one remark—that they had not applied to his Majesty's Government; because they knew that, even if ministers did interfere with their influence, that influence would be nugatory, when exercised in behalf of her Majesty, though it would be quite sufficient to throw impediments in her way, when exercised against her. He did not mean to insinuate that the influence of Government would not have been exerted, had he applied for it; no doubt it would have been exerted, and that too *bona fide*; but judging of it from its effects, it would have had no validity, as far as regarded her Majesty. They did not, however, know that such interference would be requisite till within the last few days, and that was a sufficient reason why it had not been desired. Besides, they did not choose to make known to the opposite side who the witnesses were whom they intended to call; because they should proceed to show, before they arrived at the conclusion of their case, that the very suspicion that it was intended to call a certain individual in behalf of her Majesty had led to an endeavour of the opposite party to practise upon him. They were ready to enter into the Baden case at that moment. To the case of General Pino, and the other officers who were desirous of appearing in behalf of her Majesty, would proceed at a future period, as also to the practices of Col. Browne, which formed a part of their case.

A short pause here ensued, which was broken by Mr. Brougham saying that Barbara Kress had stated, in her evidence, that M. de Berckstett had told her that, if she would not go voluntarily, she should be forced, but that she had afterwards said that she did not know whether he was one of the Duke's own ministers, or only a minister at the Duke's court. The Queen's interpreter (Mr. Gerston) had said that it was the minister for foreign affairs. Mr. Golttermann, had said that it was a foreign minister. It was indifferent to him which he was; but they could prove, most probably, by his Majesty's Secretary of State for Foreign Affairs, whom he then saw in the House, that he was a Minister of the Court of Baden. Perhaps

the opposite party would leave him the trouble of proving by admitting it.

EARL GREY could not help remarking that the case had assumed a very different appearance, now that it was stated that no application for their interference had been made to his Majesty's government. The mode of proceeding which he had recommended was no longer rendered necessary by the circumstances of the case.

The LORD-CHANCELLOR said that he was commanded by the House to inquire of her Majesty's Counsel, whether, as they had not called upon the British government to exert its influence with the Grand Duke of Baden to compel the attendance of his Chamberlain, they considered his evidence to be of material importance to their case?

Mr. Brougham.—Most unquestionably we do. We have only failed to apply to his Majesty's government for the reasons which I have above stated, and also because we only knew of this insurmountable obstacle within the last day or two.

The EARL of LIVERPOOL said, that as no application had been made to his Majesty's government, no imputation for unfair dealing could be made against them, and therefore there was no reason why this inquiry should not now go on. Her Majesty's counsel had no right to assume that an application, which they had never designed to ask his Majesty's ministers to make, to procure the attendance of the Chamberlain of the Grand Duke of Baden, would have been ineffectual: when it had been made, and made in vain, it would have been soon enough for them to have complained. He again offered, if her Majesty's counsel thought the testimony of that individual important to their case, to exert himself to the utmost to procure his attendance.

The LORD-CHANCELLOR thought it to be his duty to state that if the Learned Counsel at their bar thought it material to call witnesses to any part of their case which they had opened, they had most unquestionably a right to do so at that moment: and if they thought fit to prove the facts which they had stated, relative to the Duke of Baden, in that stage of the business, it was certainly left in their discretion to do it. But even if they proved those facts, material as they might be in other respects, they could be of no importance as to the suspending of the present inquiry. He was strongly impressed with the opinion—and he wished to impress it upon their Lordships—that, in forming their judgment upon this case, they could not do substantial justice to her Majesty without considering that she had no power of enforcing the attendance of many of the witnesses whom she might have occasion, and might wish to call. Over witnesses residing in England an order of their Lordships would have all the force of a subpoena.

in ordinary cases: but over foreign witnesses that order would not have the slightest authority: the only way to compel their attendance would be by employing the influence of the government at the court of the country of which the witness was a subject. That point ought never to be forgotten; but even if all that the Learned Counsel had stated regarding the Chamberlain of Baden were to be proved in evidence, no reason would exist for suspending the inquiry, inasmuch as the Learned Counsel, in the exercise of what he had no doubt appeared to them a sound discretion, had refused to make application to his Majesty's government for its interference. He did not make these observations to prevent those Learned Counsel from entering into proof of those assertions; certainly not; they had most unquestionably a right to enter into any part of their case at that moment.

EARL GREY repeated his opinion, that an application for the interference of the British government had not been made by Her Majesty's counsel; no grounds existed for suspending the present investigation.

The EARL of DONOUGHMORE complained that her Majesty's counsel had made a statement, imputing injustice to the Government, when in fact no injustice whatsoever had been committed by it. Such a statement coming from such a quarter, was calculated to increase the irritation which already existed in the public mind, and he was sorry to say that that was quite needless. So much inflammation had been already excited, so much misrepresentation had already gone abroad, that many Noble Lords who had taken part in the present transaction, and who had had no other object in view than the obtaining of substantial justice for all the parties concerned in it, stood before their country almost in the situation of culprits. He had wished to resist the torrent of misrepresentation which had inundated the country in the first outset of this business; but it was continuing to roll on unobstructed to the end of it. Imputations, he must again repeat, had been thrown out against the Government, which were proved to be untrue, even by the statements of counsel themselves. If her Majesty was in want of the witnesses who were material to her defence, it was the fault of her Counsel, who had not made use of the means to procure them which were in their power. Of this they must be themselves aware, though they asserted the contrary for no other purpose than because it served to round a period. He deemed it right, once for all, to assert it as his belief, that no insinuation of acting unfairly would be thrown out against the Government which would not instantly be proved by them to be most false and illfounded.

LORD HOLLAND, after some remarks in so low a tone of voice as to be inaudible below the bar, observed, that nothing in his opinion

could be more unbecoming than for Noble Lords, who were sitting there as judges, to be entering, in the present state of the business, into discussion and controversy with the Learned Counsel at the bar. Still after what had passed, he could not help stating to their Lordships the impression of his mind with regard to the nature of the statement which had been made by his Honourable and Learned Friend at the bar. His Noble Friend who had just spoken, had stated that counsel had thrown out charges against the government: for his own (Lord Holland's part), he understood no such thing to have been either done or intended. As the Learned Counsel must be considered as having withdrawn from the bar, he trusted that they would not, on their return to it, take any notice of what had occurred in their absence, especially as it appeared to him that what they had said had been misunderstood. His Learned Friend had been stating those circumstances which had prevented him from having his evidence so complete as he could have wished. He had stated that the arm of power had prevented him from bringing certain witnesses to their Lordships' bar; but he did not state what the arm of power was, or by whom it was wielded. It was sufficient for him to state clearly, strongly, and temperately—and indeed, if the facts which he had mentioned in the opening of his case admitted of proof, it would have been a dereliction of his duty not to have stated it—that he had been prevented from bringing forward certain witnesses essential to his client's case by an influence which he had it not in his power to resist. And yet it was said that the Learned Counsel had dealt in unfounded insinuations! He called upon the House to consider what an effect would be produced throughout the country, already in a state of great agitation, if Noble Lords were seen rising up, when the cause was only yet half examined, to answer the arguments adduced by her Majesty's counsel. He would not pretend to define what sort of insinuations a counsel might indulge in, and what he might not, because he was not called upon so to do; but he would only say, that if with their learning, talent, and ability, possessed by the Counsel at the bar, they endeavoured to excite ideas in the judges calculated to guard them against the artifices of fraud or the delusions of prejudice, they were only doing their duty; but if they attempted to do more, it was the business of the court to interfere, and to say to them, "You are transgressing the bounds which duty prescribes to you, and must not proceed in that course of argument." But that must be done at the time when they were so transgressing; if it were not done then, did they think that their character would be improved with the country, if, after having sat to hear that train of argument, a Noble Lord should think it consistent with his honour and dignity to start up,



and immediately reply to it? It was their Lordship's duty to hear whatever it was the duty of counsel to state to them: it was like wise their Lordships' duty, if counsel exceeded their duty, to interfere and check them; but it was not the duty of their Lordships, either as members of a judicial body, or as members of parliament, to interrupt the course of a judicial proceeding, and to rise up and answer the arguments of counsel before their case had been brought to any thing like a final termination. (*Hear, hear.*)

The EARL of DONOUGHMORE explained.

The LORD CHANCELLOR concurred with the Noble Baron who had recently addressed them in thinking that it was unbecoming the members of that House to enter into controversy with the counsel at their bar. All their Lordships possessed equal rank and authority as judges, and had full power to interrupt any counsel if he appeared to them to be proceeding in an improper manner. It was, however, a difficult matter to decide, without prejudging a case, what points were material in a counsel's speech, and what were immaterial, as he was urging them; though they did not apply at one time, they might at another; and, therefore, what often seemed irrelevant in one place was found to be highly necessary in another. If any thing improper had been urged on the present occasion, it would be his duty to apologize to the House for having permitted it; but he declared that, as far as he could judge, nothing of the kind had as yet occurred. With a view to exercise a sound judgment upon this case, he had taken notes of what had fallen from counsel; and if his notes were correct, nothing had been yet uttered which could be justly found fault with. The Learned Counsel had first stated in his argument, that, under the peculiar circumstances of this case, it ought not to be demanded of her Majesty that she should call any witnesses in her defence. He had then proceeded to argue, that what had occurred at Baden had rendered it still more incumbent upon her Majesty not to call any, as he was ready to prove that the Chamberlain of the Grand Duke, who was desirous of coming to give evidence in her behalf, had been prohibited from coming by his Royal Master, though that same Royal Master had compelled the attendance of another witness (Barbary Kress) who had been summoned against her Majesty. In all this there was nothing improper. The case of Geo. Pino he had stated in a similar manner. But it had been intimated that this latter case could not be proved. The Learned Counsel did not say that he could prove it in such strength as warranted him in using the same boldness of assertion regarding it that he had used regarding the former transaction: no, he only said that he believed it to be of

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such a nature as he had described. If he had any occasion to find fault with any insinuation which the Learned Counsel had made, it was with one which he had made when he said nothing; for, after mentioning that physicians were kept away, and that other people were kept away, he added, "and lawyers, too, were kept away—any body might tell the reason why." (*Laughter.*)

After a few words, by way of explanation, from Lord Holland,

JAMES LEMANN, the first witness on behalf of the Queen, was called in, sworn, and examined by Mr. DENMAN.

Are you clerk to Mr. Vizard, the solicitor to her Majesty? I am.

Were you sent by her Majesty's order to Carlsruhe? I was.

On what day was it that you left England? On the first of September.

On what day did you arrive at Carlsruhe? On the 14th of September.

Were you provided with any letter by her Majesty to any person resident there? I had a letter from her Majesty, directed to the Chamberlain of the Grand Duke of Baden, Baron Dente.

Did you inform him that he was requested to attend as a witness upon this trial? I did.

When was it that you made that communication to him? On the 17th of September.

Did you take down his deposition in order to prepare a brief for the instruction of counsel?

The witness answered this question in so low a tone of voice that he was not audible.

The LORD CHANCELLOR desired him to speak in a louder tone of voice, and to address himself to the House, and not to the counsel.

Did you tell him what the object was that had brought you to Baden? I told him that my object was to request his attendance on her Majesty's trial.

Did you take down his deposition for the purpose of preparing briefs for counsel? I did; I took down his examination upon the 20th.

Do you know, whether upon that occasion he consulted any minutes? Yes, he consulted the minutes he had at Baden.

Do you know whether the Grand Duke was then at Baden? Yes, he was.

Was the Baron willing to come to this country at the time when you took his deposition on the 20th? Yes, he was.

Did he, when you saw him afterwards, state any reason to you why he could not come? Yes, he said he could not come without the consent of the Grand Duke.

After he returned from the Grand Duke, at Carlsruhe, did he make any statement to you? Yes, he did; he told me, on the 23d, that

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have stated to me  
British and the Grand Duke is certainly  
not evidence.

The Attorney-General observed, that he  
merely interposed with the view of ascertain-  
ing if this were intended as evidence in the  
case.

Mr. Denman said, it was not tendered as  
evidence.

The Solicitor-General then said, that they  
had nothing to do with it in that view.

The LORD CHANCELLOR said that  
this might perhaps have an operation here-  
after, as showing a reason why a particular  
witness was not forthcoming. It might in that  
way have some bearing upon the case.

#### EXAMINATION OF THE WITNESS RESUMED.

Did the Chamberlain state any other rea-  
son? No. I remember his saying he enjoyed  
an estate in Hanover under his Majesty,  
but that should not prevent his coming over,  
because he was satisfied his Majesty would  
not think ill of him for coming.

Did you make any other application to  
him? Yes; I wrote to him requesting he  
would make a deposition before the local au-  
thorities on the spot.

What answer did he return? He said he  
could not do so without the consent of the  
Grand Duke.

Was there a person named Manderfield at  
Carlsruhe when you were there? There was.

Was he present when you spoke to the  
Chamberlain? I don't think he was, but he  
has been there.

Did you communicate your being there  
on behalf of her Majesty? I did not.

When did you return from your journey?  
The day before yesterday.

Do you know whether during your stay at

The Chamberlain's body also arrived there on the  
part of the Queen? Yes, Mons. Siehard came.

When did you leave London, and when did  
you arrive at Carlsruhe? I left London on  
the first of September, and arrived at Car-  
lsruhe on the 14th.

Then if you applied to his Majesty's Go-  
vernment on your arrival, still several days  
must elapse before a further communication  
and answer could be sent, and returned from  
Carlsruhe? Certainly, twelve days I should  
think.

LORD GRANTHAM.—In what language  
did the witness's conversations at Carlsruhe  
take place? Chiefly in French.

The Attorney-General, in reply to a ques-  
tion from the Lord-Chancellor, said he had  
no question to put to this witness.

COLONEL ANTHONY BULLER ST.  
LEGER sworn.

Examined by Mr. DENMAN.

Colonel,—were you Chamberlain to her  
Majesty the Queen? I had the honour of  
being her Majesty's Chamberlain.

How long did you fill that office? I think  
about 11 years.

During what period? From the year  
1809 down to, I think, the month of Octo-  
ber, 1819.

Did you go abroad with the Queen in 1814?  
I did. I went so far as Brunswick. I had  
entreated that her Royal Highness would  
dispense with my attendance on account of  
the bad state of my health, and she was good  
enough on that account to dispense with it,  
after her arrival at Brunswick, on the tour  
she was then about to take. I understood  
from her Majesty then, that her tour would  
be through Germany and Italy, and she was  
good enough to say that she would dispense  
with my attendance after her arrival at  
Brunswick.

Was that understanding before you left  
England? Yes, it was. According to that  
permission I left her Majesty at Brunswick;  
she was then good enough to say that I  
might return if I chose.

In the course of last year, did you receive  
any communication from her Majesty? I  
did; I think I received a communication in  
July or August, that it was her Majesty's  
intention to come to England in the month of  
September following.

The Attorney-General observed that the  
questions were not put in a strictly legal  
form.

Mr. Denman replied, that he would put  
them in a different form if his Learned  
Friend pleased.

Did you receive any communication from  
her Majesty? I did.

Did you do any thing, or what did you do,  
in consequence? I prepared, as I was de-  
sired, to meet her Majesty at Devon.

Was the only reason why you did not join her Majesty your state of health? It was; my state of health was so bad, I could not join her Majesty. I have been for a considerable time obliged to go to Devonshire, where I am confined within doors all the evenings of the winter months.

Since her Majesty's return have you paid your respects to her? Yes, I have, immediately upon her Majesty's arrival.

On what account? In consequence of my state of health, I requested permission from her Majesty to resign my office, as during the winter I could be of no use to her Majesty. On that account her Majesty was pleased to accept my resignation.

The LORD-CHANCELLOR asked whether the Attorney-General had any questions to put to this witness.

The Attorney-General replied in the negative, and the witness was ordered to withdraw.

*The EARL of GUILFORD* then called.

His Lordship rose in his place as a Peer, and took the oath as administered to him by the Lord-Chancellor, who informed Mr. Tindall (one of the Counsel for her Majesty) that he was to suggest his questions to the house, when he put them for the Earl of Guilford to answer.

Does your Lordship recollect having seen her Majesty the Queen at Naples? I recollect coming to Naples after the Queen had arrived there.

At what time was that, does your Lordship recollect?—I think it was in the beginning of March, 1815.

When your Lordship arrived at Naples, who formed the suite of her Majesty?—I think there were Lady Charlotte Forbes, Sir Wm. Gell, the Hon. Keppel Craven, and Dr. Holland. These were all to the best of my recollection.

Does your Lordship recollect a person of the name of Bergami being there? Yes, I recollect seeing that person.

In what situation was he then, does your Lordship recollect? As far as I understood, I think he was called a courier.

How long did your Lordship remain at Naples at the period to which you allude? I remained there at that time only 3 days, or 4, to the best of my recollection.

Was the Lady Charlotte Lindsay at Naples at this time, or did she join your Lordship soon after? She arrived with me at Trieste, but did not accompany me from thence to Naples; I went there before her.

Where next did your Lordship see the Queen?—I saw her next at Rome.

At what interval between your seeing her Majesty at Naples and at Rome? The interval was but of very few days; I cannot positively recollect the actual number.

How long did her Majesty remain then at Rome? She remained there for a few days,

very few, perhaps 2 or 3, but I cannot speak precisely.

During that time, at Rome, did your Lordship dine with the Queen?—Not, I think, at Rome; I dined once with her Majesty at Naples.

Can your Lordship recollect the company at her Majesty's table, the day you dined with her at Naples? There was a large party, but I do not recollect exactly of whom composed; there was a number of English, and several foreigners.

Does your Lordship mean of Neapolitan nobility?—I really cannot now recollect.

Did Lady Charlotte Lindsay dine there? Yes.

Did Madame Falconet? I believe so; but I cannot recollect the particular persons now.

After her Majesty left Rome, where next did your Lordship see the Queen? At Civita Vecchia. I believe she embarked there for Genoa.

Were you there at the time, my Lord? Yes; she embarked from Civita Vecchia for Genoa.

How long did her Majesty stay at Civita Vecchia before she embarked? I think about 5 or 6 days.

Did your Lordship and Lady Charlotte Lindsay form a part of her Majesty's party during her stay at Civita Vecchia? Yes; we dwelt in the same house.

And of course lived at the same table? Every day, always.

Was any body else there, my Lord? Yes; I think the Marquis de Manno, who was master of the house in which her Majesty was, dined there sometimes and some of his family I believe.

Were those persons who formed her Majesty's suite at Naples there? Yes, with the exception of Dr. Holland.

Was Madame Falconet there? Yes.

And her two daughters? Yes.

Of what age, my Lord, were these young ladies? I think one of them was about fifteen or sixteen, and the other a little younger.

Did your Lordship know Madame Falconet before? Yes, I had seen her before.

Who was she? She was the wife of a banker at Naples. I understood she was either an English or an American lady.

Is her husband a person in a considerable line of business? Very considerable.

Did Madame Falconet associate with persons of the first rank in Naples? I believe she did in the first mercantile circles, but I really cannot say.

Was she not also in the first rank of the English? I really cannot say. I believe so. I was then a very short time in Naples.

Did her daughters also associate among persons of the first rank? I believe so; she had one daughter married, as I understood to a

French gentleman of rank, and another to an American gentleman.

Were these the two ladies who were with the Queen? No; two other daughters, I believe.

Did the ladies your Lordship mentions dine at her Majesty's table at Civita Vecchia? Yes, they did.

When the Queen embarked, was it on board the *Clorinde*? Yes, it was.

Did your Lordship and Lady Charlotte Lindsay then embark with her Majesty on board the *Clorinde*? Yes.

Who else then formed her Majesty's suite? Madame Falconet, her two daughters, and Dr. Holland.

Where did your Lordship and Lady C. Lindsay disembark? At Leghorn.

When did your Lordship see her Majesty after that period? A long interval elapsed before I saw the Queen again. The next time I met her was, I think, in November, 1815, at the Villa d'Este, her house near the Lake of Como.

Was your Lordship then accompanied by Lady Charlotte Lindsay? No, I was not.

Where was Lady Charlotte then? She was in England.

Your Lordship has said that you then saw the Queen at the Villa d'Este? Yes, I first saw her Majesty on the Lake.

Did you dine at the Villa then? Yes, I did.

Was Bergami then at her Majesty's table? He was.

Did your Lordship ever before see him sit at table with her Majesty? Never, I think.

Did your Lordship stay longer than that day at the Villa d'Este? No, I went away the same evening.

Where did your Lordship go? I slept that night in the little town of Como, and went on the next day to Milan.

Did your Lordship see the Queen afterwards? Yes, I saw the Queen on the Saturday or Sunday following at Milan, where I dined with her by an invitation which I received when I was at the Villa d'Este.

Was it your Lordship's intention when you went to the Villa d'Este to have paid a longer visit? I had no intention of staying longer; I had made no particular arrangement.

From that time have you had any opportunity of seeing the Queen? No, I have not.

The LORD CHANCELLOR said, that before he asked the Attorney-General to proceed with any questions, he had to apologise to the House for not informing them, when the Noble Earl was sworn, that it was usual when a peer was sworn, to receive their Lordships' permission to dispense with having the questions put through their Speaker, and to suggest to them to adopt the more convenient course of their being put by counsel in the usual course. He had to beg their

Lordships' pardon for not formally putting the question, that they should dispense with the strict form.

The Attorney-General then proceeded to cross-examine the Earl of Gifford.

Your Lordship has stated that, when you were at Naples, Bergami's situation with the Queen was that of a courier? Yes.

Did it happen to your Lordship to see, while at Naples, at Rome, or at Civita Vecchia, whether Bergami waited upon the company at table? I cannot recollect at Naples whether he did or not, but I think he did at Civita Vecchia.

Did he wait at table on board the *Clorinde*? I cannot recollect.

What situation did Lady Charlotte Lindsay hold in the Queen's establishment? She was lady of the bed chamber.

When did her Ladyship resign that situation? I think it was at the beginning of May, 1817.

Where did she leave the service? I think at Leghorn.

When you visited at the Villa d'Este what ladies were in attendance? There was an Italian lady, whose name I understood to be the Countess Oldi.

Had your Lordship an opportunity of conversing with that lady? Yes, I conversed with her.

From your Lordship's knowledge of the Italian, did she speak what was termed the *Patois*, or pure Italian? I thought she spoke very good Italian, with rather the accent of Lombardy.

When at Villa d'Este did your Lordship see the grounds about the house? I did; I was shown them by her Majesty.

Does your Lordship remember having at the time a Greek or an Albanian servant? I had a Greek servant with me.

Did the Queen accompany your Lordship through the grounds? Yes, she showed me the olive-yard, a great part of the gardens, and then lent me her donkey, her jack-ass, (a laugh) to ride.

In what part of the gardens did you mount? I think it was near the door.

Did you see the Queen walking about the grounds afterwards? I don't recollect.

Did your Lordship see your servant walking about the grounds? I might have seen him, but don't recollect.

Did your Lordship see him in any part of the grounds with the Queen? No.

Did your Lordship ever state you saw him walking near the Queen? Certainly not; I don't recollect it. I have stated that he said—

His Lordship here stopped from mentioning what he had stated he heard.

I am then to understand that your Lordship to say, that you never saw your servant that day walking on the grounds with the Princess? Certainly not; I do not recollect hav-

ing seen him; there were a number of people walking about there, but I do not recollect seeing him in particular.

Does your Lordship recollect a grotto there? Yes; the Princess showed me a grotto. I remember.

Does your Lordship recollect your servant being there? No; I do not.

Did your Lordship never state you saw him there? Certainly not. I never said so, for I recollect nothing particular that could fix it on my mind.

Your Lordship might perhaps have seen him? I might have seen him, but I do not recollect it.

Was your Lordship accustomed to ride much at that time? I seldom rode unless upon the donkey which belonged to her Royal Highness.

Did you ride over the grounds attached to the Villa d'Este? Yes, certainly, I have passed over those grounds.

Were you attended by your servant on any one of those occasions? Yes, sometimes.

How long did that person afterwards remain in your service? I think he left me at Venice in the course of the year 1817.

Had you ever any conversation with your sister Lady Charlotte Lindsay on the subject of her remaining in attendance on her Royal Highness? Yes, I recollect to have had some correspondence with her on the subject.

Did you recommend to Lady Charlotte Lindsay the propriety of resigning the situation which she held about the person of her Royal Highness?—I did advise her to resign it.

What were the considerations which induced you to give that advice?

Mr. Brougham here desired to remind their Lordships that this was a question addressed to points on which he had been restrained from entering.

The LORD CHANCELLOR agreed with the Learned Counsel, that the examination was taking an irregular course, and it might indeed be advisable to expunge the preceding question and answer.

Mr. Gurney was then directed to obliterate the passage from his notes.

#### Re-examined by Mr. TINDALL.

Can your Lordship describe the extent or size of the grounds forming a part of the Villa d'Este?—No, I cannot make any distinct estimate as to their extent or situation.

You cannot then state the precise number of acres which they comprise?—No, certainly not.

Did you ever, on observing her Royal Highness and Bergami together, remark any impropriety of conduct or demeanour on her part?

The Attorney-General objected to the question as too general, and as referring to

a matter not touched upon in his cross-examination.

The LORD CHANCELLOR was of opinion, that if the question was admitted, it would necessarily let in the other side to a right of inquiring farther on the subject.

Mr. Brougham assured their Lordships that he should not object, if such was their pleasure to the withdrawing of the question.

#### Examined by Sir Peers.

By LORD ROSS.—Did you ever see her Royal Highness in company with any other person in a boat on the Lake of Como?—I have certainly seen her in a boat accompanied by another person.

Who was that person?—I have seen her in a boat with Bergami alone.

By EARL GREY.—Did your Lordship notice any particular familiarity passing between them, when you thus saw her Royal Highness and Bergami in a boat together?—Certainly, I never observed any conduct on that occasion which appeared to me to be indecorous.

Your Lordship has already stated that the Countess Oldi had a little of the Lombard accent in her pronunciation; was any impression made on your mind with regard to her manners, as well as with regard to her language?—My chief impression was, that her manners were quite inoffensive.

Were they the manners of an apparently respectable and modest woman? I saw nothing vulgar or immodest in her deportment.

Did you ever remark whether her conversation and deportment were such as indicated a well-bred woman, or a woman of inferior station in society?—I never observed any particular vulgarity.

The short-hand writer was here desired to refer to his notes; some of their Lordships entertained a doubt as to the answers rendered to the two last questions, and Mr. Brougham, contending that the real answer to the last question was, that his Lordship had never observed "any thing vulgar," and not "any particular vulgarity."

Mr. Gurney having referred to his notes, it was deemed most satisfactory to re-state the question, and his Lordship then admitted the correctness of his answer as above recorded.

Do you recollect any impression remaining on your mind after your conversation with the Countess Oldi, that you had conversed with a vulgar woman? I do not remember any such impression.

Did you remark any difference between her manners and the manners of other Italian ladies? I cannot say that I did; there was no observable or material difference; I should not perhaps call her a person of great refinement, but there was no part of her conduct that was singular or easy to be dis-

tinguished from the greater proportion of Italian gentlewomen.

By the EARL of LIVERPOOL.—Do you consider that her manners and deportment were those of a woman who had all the advantages of a good education, or who had passed her life in the best society?—I did not converse long enough with her to be enabled to form any clear opinion on those points.

How often did your Lordship meet her? I met her on two occasions, once at the Villa d'Este, and a second time at Milan.

Did you know on either of those occasions that she was the sister of Bergami?—I believe I was not informed of that circumstance on the first occasion, but I certainly was aware of the fact when I saw her at Milan.

By LORD ERSKINE.—You have stated, as I understand, that you noticed no defect of education or manners on your conversing with the Countess Oldi?—I had not the means of forming any opinion as to the mode in which she had been educated, but it did not appear to me that there was any remarkable difference between her and other ladies of the country.

By the EARL of LAUDERDALE.—At what part of the table did your Lordship sit when you dined with her Royal Highness the Princess of Wales at the Villa d'Este?—On the side opposite to her Royal Highness.

How was your Lordship placed in this respect when you dined with her Royal Highness at Milan?—As well as I am able to charge my memory with the circumstance, I sat at her Royal Highness's side.

You have already stated that Bergami dined at that table; at what part of it did he take his seat? He sat, I believe, on the opposite side of the table.

Did your Lordship receive any particular attention from her Royal Highness? She always treated me in a very gracious manner.

Was there any thing remarkable in her deportment towards Bergami? I remarked no peculiarity.

Where did Bergami's sister, the Countess Oldi, sit on that occasion? By the side of Bergami.

Who else were present? Lieut. Hownam, William Austin, and a gentleman whom I understood to be an Italian physician.

By LORD KENYON.—Do you recollect what was the size of the boat in which you saw her Royal Highness and Bergami together on the Lake of Como? I recollect that it was rather a small boat.

Was it in motion at the time? I hardly remember exactly whether it was moving or not.

What was its distance from the shore? Its distance was inconsiderable.

Was the distance such as to afford you an

opportunity of seeing them? Yes, I had the opportunity.

How was Bergami employed in the boat? He was rowing.

By EARL BATHURST.—Was the Countess Oldi introduced to your Lordship as the sister of Bergami? No, she was not described as his sister at the time.

Would your Lordship have made any remark on that circumstance, had it occurred? I scarcely think that I should have regarded it as extraordinary.

By the EARL of DARLINGTON.—Did you ever observe any singularity in the deportment of her Royal Highness towards Bergami? I never observed any.

Was the garden to which you have alluded in the course of your evidence immediately adjacent to the house? The grounds were laid out about the house, and the olive garden was contiguous.

You cannot undertake to say, I believe, what was the extent of those grounds? I cannot.

Did it exceed an acre, or comprehend several acres? I have no certain knowledge.

By LORD BELMORE.—Did your sister, Lady Charlotte Lindsay, quit her Royal Highness of her own accord, or was she dismissed? She quitted voluntarily.

Did your Lordship recommend to her to do so? I did.

What were the reasons or motives which induced your Lordship to make that recommendation?

Mr. Brougham objected to this question as one which Counsel had been restrained from putting.

The EARL of LIVERPOOL said it ought to be understood that every peer was in the situation of a judge, and was entitled to put any question that was not in itself illegal.

The MARQUIS of LANSDOWN observed that they were all undoubtedly in the situation of judges, but it behoved them so act concurrently, and to render their proceedings as similar as possible to those over which a single judge presided.

LORD BELMORE was of opinion that the question he had put was one of considerable importance as regarding the merits of the case, but he was perfectly ready to withdraw it, if in their Lordships judgment it appeared irregular.

By LORD ELLENBOROUGH.—Did you make any observation on the deportment and manners of Bergami himself? I remarked that his manners were unobtrusive, I never saw him forward or assuming.

His Lordship then stated with reference to a former part of his testimony, that he had an imperfect recollection of having on some occasion remarked, but not as an extraordinary circumstance, that after dining at the Villa d'Este, he had seen his Greek servant in attendance on her Royal Highness.



Had you any conversation with Bergami? No particular conversation; he spoke a little; the only time when I was alone with him was in the gallery at Milan, but I do not recollect any particular conversation.

From the opportunity you had of observing Bergami's behaviour could you form any opinion of his being superior to the situation he formerly filled; No, I do not think it struck me that he was.

At the request of Mr. Denman, the last question was read to the witness, as the learned counsel did not think his Lordship had heard it distinctly. The witness did not vary the answer he had before given.

**LORD GLENBERVIE** was the next witness; he was sworn at the table, and examined by **MR. WILDE**.

Did you see her present Majesty at any time in Genoa? Yes.

Were you there with Lady Glenbervie? I was.

Did Lady Glenbervie at any time form part of the Princess's suite? No.

Did Lady Glenbervie at any time act at Genoa in the suite of her Royal Highness? She did.

In what way? When her Royal Highness arrived at Genoa Lady Glenbervie and I were there. Lady C. Campbell, who was expected, had not arrived, and did not arrive for some days. Lady Glenbervie having been formerly one of the ladies of the bedchamber to the Princess, proposed to attend her till the arrival of Lady C. Campbell.

During the time Lady Glenbervie was in attendance upon the Princess, did you dine at the table of her Royal Highness? Frequently.

For what period? Her Royal Highness arrived, I think, on the 25th of March, and Lady Glenbervie and I continued at Genoa till the 17th of May; the Princess left on the 18th of May. During that period I have frequently dined with the Princess, but not every day.

During that time did you see a person of the name of Bergami? I saw him every day I dined there.

What was the conduct you observed in her Royal Highness towards him during that period? Bergami waited behind the Princess's chair, in the habit of a courier. I often had the honour to sit next to her, and all I saw in her was the behaviour of any mistress of rank to a servant. He often helped the Princess and me to wine and other things.

What was the conduct of Bergami towards her Royal Highness? That of a servant.

Was it respectful, becoming his place, or otherwise? I did not observe any thing particular; if there had been any thing like disrespect, I should have observed it.

Did you mention the year? 1816.

What company did you meet at her Royal Highness's table during that period? Mrs. Falconet and her two daughters; Mr. Hewnam, a lieutenant in the navy; Lady C. Campbell came some days or a week after the Princess; Dr. Holland was also there most days, but not all; I likewise saw some Genoese noblemen; one in particular I recollect, Marchese Jean Carlo Nagni. There were also some English officers of the navy.

Did you see Lady Wm. Bentinck there? I saw her at Genoa frequently.

At her Royal Highness's? I saw her there, but whether I dined with her there I do not recollect.

Do you recollect attending any balls given by her Royal Highness? The only ball given there I went to.

Did you meet there the principal persons of the place? I think a great many of them, the principal ladies and gentlemen of the place.

*Cross-examined by the SOLICITOR-GENERAL.*

I believe you did not live in the house of the Princess? I did not, nor Lady Glenbervie.

When Lady Charlotte Campbell arrived after the lapse of a week Lady Glenbervie ceased to act? Yes, but she was often there.

How many times in the week on an average might you have dined there? Two or three times, or how? Yes, I should think, certainly, or more.

Do I understand you that at that time Bergami wore the dress of a servant? He was in a courier's dress, a sort of Spanish dress, according to my recollection.

By **LORD LAUDERDALE**.—Did you meet Captain Pechell, of the *Clorinde*, at dinner? I think I did.

#### **LADY CHARLOTTE LINDSAY**

Was then handed to the bar by Mr. Brougham, who applied that she might be accommodated with a chair. The request was granted, and being sworn she was examined by Dr. Lushington.

Did you ever form a part of the suite of her Royal Highness the Princess of Wales? I did.

When did you first enter the service of the Princess? I think in the year 1806.

Did you attend her Royal Highness when she went abroad in 1814? I did.

Were you not one of the ladies of the bedchamber? I was.

How far did you go with the Princess of Wales on that journey? As far as Brunswick.

Why did you not go further? It never was understood by her Royal Highness nor by me that I was to go further than merely to accompany her to Brunswick.

When did you again see her Royal Highness? I saw her at Naples in the beginning of March, 1816.

Did you then act as lady of the bed-chamber to her Royal Highness? I did.

How long did you then continue with her? I joined her Royal Highness in the beginning of March. I remained with her as long as she continued at Naples; I accompanied her to Rome, from thence to Civita Vecchia; I then embarked on board the *Clorinde*, and quitted the Princess at Leghorn; this was by an arrangement which had been settled before we met.

By whom was her Royal Highness visited while at Naples? She was visited by all the English of distinction there, and by the Neapolitans of distinction, and other parties.

He pleased to state the names of some? Lord and Lady Landaff, Lord and Lady Gage, Lord and Lady Cunningham, Lord and Lady Holland, Lord Clare, Lord G. Somerset, Lord F. Montagu, Lord and Lady Oxford, Sir W. Gell, Mr. Davenport, Mr. W. Bankes, and there may be others whose names I forget.

Was her Royal Highness visited by Mrs. Palcouet? She was.

And her daughters? And her daughters.

Were you on board the *Clorinde* with her Royal Highness? I was.

Do you remember where her Royal Highness slept on board? She slept in a part of the Captain's cabin which was divided into two: her Royal Highness slept in one part, and the Captain and his Brother in the other.

Did any other person sleep in the division of the cabin where the Princess slept? Yes, her maid.

Do you recollect any thing arising in consequence of the cabin being divided into two parts? Nothing particular, except that the Princess expressed some regret that the other part of the cabin had not been appropriated to me instead of the Captain and his brother.

Did it occasion any difference between the Princess and the Captain?—No, I did not observe it.

Do you remember a person of the name of Bergami being in the service of her Royal Highness?—I was often in company with the Queen when Bergami attended.

How did Bergami conduct himself?—In the common way in which a servant would.

How did her Royal Highness conduct herself?—In the manner that a mistress would conduct herself.

Did you ever observe any impropriety of conduct between the Princess and Bergami? Never.

When did you quit her Royal Highness's service? I sent in my resignation in the year 1817.

What was your reason for resigning? My brother wrote requesting me to return.

Have you seen her Royal Highness since she returned to this country?—I have.

Cross-Examined by the Solicitor-General.

How long before her Royal Highness quitted Naples was it that you joined her? I think about ten or twelve days.

How much time was occupied in proceeding from Naples to Leghorn? We were one night in going to Rome: we stayed 2 nights at Rome, 6 at Civita Vecchia, waiting for the ship, and 3 nights on board the *Clorinde*.

Then you did not return into the service of her Royal Highness after being at Leghorn? I did not resign; I left at Leghorn for the purpose of joining my brother, and having his escort home.

While at Civita Vecchia did you see Bergami? I did.

Will you try and recollect with accuracy whether you did not see him at Civita Vecchia walking with the Princess? The Princess and I frequently walked out together, and Bergami attended; he did not walk with us, but a little way behind us.

Did that happen every time you walked out? Every time as far as I can recollect.

Was there any other courier in the service of the Princess at that time? I believe there was another—Hieronimus. He was with us.

Do you mean to say that Hieronimus also walked out with you? No, I do not recollect that he walked out.

Have you the least doubt that he did not walk out? I do not think that I had the honour to walk out above twice with her Royal Highness.

Did you not say just now that you walked out with the Princess several times?—I might walk out three times, but at this moment I do not call to mind more than twice.

Perhaps you will not swear that you did not walk out 5 or 6 times? I can swear that we did not.

But will you swear that you did not walk out 4 times? I think not.

But every time you did walk out, the courier who accompanied you was Bergami? He was.

Will you take upon yourself to swear that on none of those occasions her Royal Highness walked arm in arm with Bergami? I have no recollection of it.

Will you take upon yourself to swear that she did not? I can only say I have no recollection of it; as far as I recollect, Bergami attended at a little distance, unless he was called to be asked a question.

Then I understand that you will not swear that the Princess did not on that occasion walk arm in arm with Bergami? I certainly do not recollect that she did.

But you will not swear that she did not? I cannot positively swear, but I was never struck by it.

Why, if such a thing had happened, must it not have struck you? I suppose it would, and therefore I imagine it did not happen.

But you will not swear that it did not? I will not swear it, because she might have taken his arm on some particular occasion: that might have happened without my being struck by it as extraordinary.

You said just now that it must have struck you? If they had walked arm in arm it would have struck me.

Then, though they did not walk arm in arm, the Princess might take his arm at Civita Vecchi? She might, but I have no recollection of the circumstance.

You filled the office of lady of the bed-chamber? I did.

That did not necessarily lead you into her Royal Highness's bedroom? Very frequently it did: frequently she sent for me.

At Naples? At Naples.

Was the Princess always alone on those occasions? Not always alone, certainly; sometimes there were persons with her.

Do you recollect ever upon these occasions seeing Bergami in the bed-room? I have seen him myself in the bed-room; because we dined in the bed-room. I dined in the bed-room with the Princess and William Austin, and Bergami used to wait upon us as servant.

During the time you were at Naples? Yes.

Did any other person, except William Austin, yourself, and the Princess, dine upon these occasions? No; nobody but we three dined; but other servants used to come in and bring the dishes.

Did that happen frequently at Naples? Yes, it happened whenever her Royal Highness had not company to dinner, excepting one day when I had leave of absence to go to Pompeii.

Did Bergami always wait on these occasions?—I think he did, but I cannot positively swear.

When was it you quitted the service of her Royal Highness? In 1817.

Had any application been made to you to join her Royal Highness in Germany before you took the resolution of quitting? Yes, there had.

How long before? I cannot accurately remember how long.

Was any proposition made by her Royal Highness to appoint Colonel Lindsay her Chamberlain?

Mr. Brougham objected to this question. His objection was only that which his learned friends had so often urged—that if the proposition were made in writing, no questions could be put regarding its contents.

The LORD CHANCELLOR was inclined to think that the question might be put, if it arose out of the examination in chief.

The question was repeated, and Mr. Brougham again urged his objection.

The LORD CHANCELLOR said, that if the objection were taken, it must be argued.  
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and as 4 o'clock had arrived, it might be proper to adjourn it till to-morrow.

Mr. Brougham.—I am willing to concede any thing rather than delay your Lordships.

The LORD CHANCELLOR added, that the House ought not to consider merely what counsel would concede, but what ought to be conceded: if the question were illegal, the House ought not to allow it to be put, even if counsel did not object. He thought that it would be fit to adjourn, that the point might be duly considered.

The House accordingly adjourned at four o'clock.

## House of Lords.

THURSDAY, OCT. 6, 1820.

After 10 o'clock prayers were read and the House was called over. Several peers were excused for non-attendance on account of indisposition.

### M. MARIETTI.

Business commenced by calling Mr. Joseph Marietti to the Bar. He was examined by the Marquis of Lansdown.

Have you the letter from M. Albertonlo you were yesterday to bring? Yes.

You will deliver it into the House? It is torn in two, because only a part of the letter was to me. The other half was to another person.

The letter was given in.

M. Marietti begged to inform their Lordships that he had made a mistake yesterday with respect to the manner in which he had received the letter dated the 16th of September. That letter did not come by the post, as he had supposed. He received it by a private hand.

Having made this explanation M. Marietti withdrew.

### HER MAJESTY'S CASE.

#### LADY CHARLOTTE LINDSAY.

Cross examination by the SOLICITOR-GENERAL continued.

Does your ladyship recollect a garden at Naples called *Il Paradiso*? Yes.

Did you ever walk in that garden with her Royal Highness the Princess of Wales? Yes, I walked one day with her Royal Highness in that garden.

Was Bergami also present. He was.

Did your Ladyship, in going from Naples to Rome, travel in the same carriage with her Royal Highness? I did.

Did Bergami, on that occasion, ride with the carriage as courier? He did.

Did your Ladyship also travel in the same carriage with the Queen from Rome to Civita Vecchia? Yes, I did.

Does your Ladyship recollect whether Bergami accompanied the carriage as courier in—

that part of the journey? I believe he did; but I am not so positive in my recollection of his being present on this as on the former part of the journey.

Does your Ladyship recollect Bergami riding up to the carriage in the former part of the journey, and addressing her Royal Highness, and saying—"à boire, Madame?"—I recollect his coming up to ask for something to eat or drink, and her Royal Highness giving him something when called.

Do you recollect whether it was before or after he was called? I have no distinct recollection, but I think it was after.

Was it after he was called by her Royal Highness? I think it certainly was.

Did your Ladyship observe any circumstance that may enable you to speak positively? Merely because it was more natural that he should not come until he was called.

Then your Ladyship has no positive recollection, but merely makes an inference?—No: nothing struck me as singular in the circumstance.

Was it a bottle which her Royal Highness handed to Bergami? Yes, it was a bottle of wine.

Did he drink on receiving it? I think he did.

From the bottle, without a glass? I think so.

Did he afterwards return the bottle to her Royal Highness? I cannot positively say; but I fancy he did.

Cannot your Ladyship recollect? We had taken our refreshment, and whether he returned it or took it away I am not certain.

Although not certain, your Ladyship can say, to the best of your recollection, whether Bergami returned the bottle or took it away? I cannot be certain, but I rather think he returned it.

After you had made up your mind to quit the service of her Majesty, did you not state to some person that you found a vast relief to your mind in having come to that resolution? I have no distinct recollection of having stated that.

Your Ladyship says you have no distinct recollection of having made this statement; but do you remember having said any thing to the same purpose or effect? No; I may have said something like it, but I do not think I ever did.

Perhaps I may be able to call the circumstance a little more to your Ladyship's recollection. After your determination to leave the Princess of Wales, did you not say that that determination was a vast relief to your mind, for that no woman, with any regard to her character, would wish to continue with her Royal Highness? I do not recollect having said any such thing, or used any such words.

Does your Ladyship recollect having said any thing to that effect? No.

Will your Ladyship undertake to say that you did not state those words, or make use of words to that effect? I have no recollection of ever having used any such words.

I understand your Ladyship will not undertake to say that you did not make use of these very words? I say I do not remember having made use of them. I have no recollection of them.

Your Ladyship having said that you have no recollection of those words, I wish to ask whether your Ladyship will undertake to say that you never did make use of them? I can only say that I think it extremely improbable I should have used such words, and I do not recollect that I ever did.

I understand that your Ladyship will not say that you did not make use of those words? I can only repeat that I have no recollection of having used them, and think it very improbable that I should.

Will your Ladyship undertake to say that you have not made use of words to that effect more than once. I have no recollection of using them at all.

Your Ladyship, however, will not undertake to say that you have not used them more than once?—I can only repeat what I said before, that I have no recollection of using any such words, and that I do not think it probable I ever did use them.

Did you not say, on quitting the service of the Princess of Wales, that if it had not been for the desire you had to assist an individual with what you saved from that service, you would have quitted it long before?—It is very possible that I may have used these words, but I do not distinctly recollect having used them. I think it, however, possible.

Having recalled these last words to your ladyship's recollection, I would beg to know whether the former did not pass at the same time?—I have no recollection of having used the former words, and do not think I ever used them. I have no distinct recollection at what time I said, that, had it not been for my desire to assist an individual, I would have quitted her Royal Highness's service sooner; but certainly I do not think that I coupled that observation with any words implying an unfavourable opinion of her Royal Highness.

Does your Ladyship say that you recollect you did not couple the observation about leaving her Royal Highness's service with the former words?—As far as I recollect I did not.

But your Ladyship will not be positive?—I can only say that I have no kind of recollection, and think it not at all probable.

Do I understand your Ladyship that you do not say positively that it was not so?—I have no recollection of ever saying that no woman of character would wish to continue with the Queen.

Your Ladyship must perceive that is not an answer to my question, whether you can positively say it was not so?—I can only say that I have not the least recollection of having said so to any body at any time.

In answer to a question put yesterday by Dr. Lushington, your Ladyship said that you resigned your situation in her Royal Highness's household, in consequence of a communication from the Earl of Guilford; I should be glad to know whether the conversation about your continuing in her Royal Highness's service occurred before or after that communication?—I cannot recollect.

Do you recollect whether it was about the same time?—No, I do not recollect anything of the time at which the communication took place.

Was it after the arrangement for your leaving her Royal Highness was made? I do not know.

Can your Ladyship think of no circumstance which may bring the time to your recollection?—Yes, I think that what I said about serving a certain individual must have taken place after the communication made to me by Lord Guilford.

*Re-examined by Dr. LUSHINGTON.*

The Solicitor-General has asked you a question relative to a communication on your resignation. To whom was it made? To my husband.

To any one else? No.

Is Mr. Lindsay at present in distressed circumstances? Yes.

Has he been so for a considerable period? For some years.

Had you ever any difficulty, while in the service of the Princess, with respect to the payment of your salary?

The Solicitor-General objected to this question. He could not conceive how by any possibility such a question could arise out of his cross-examination.

Mr. Brougham said, he would show how it came out of the cross-examination. But their Lordships perhaps anticipated what he was about to say. Some questions had been put in the course of the cross-examination on the subject of the anxiety to remain in the service of her Royal Highness on account of certain embarrassments. It was the object of his Learned Friend to show what those embarrassments were.

Dr. Lushington thought it was perfectly clear he had a right to put the question.—Their Lordships would recollect that a great part of the cross-examination of the Solicitor-general had reference to the circumstance of Lady Charlotte Lindsay having quitted the service of her Royal Highness, and that the examination was framed with a view of showing that the reasons of Lady Charlotte for resigning were such as affected the honour and dignity of her Majesty's reputation. He must then contend that he had a

right to put questions, with a view of rebutting that cross examination.

The EARL of LAUDERDALE rose, and observe that it was proper that the witness should, in conformity with the orders of the House, withdraw while this point was discussing.

The witness withdrew.

The Solicitor-General, being now informed of the view with which the question had been put, had no longer any objection to the course of the examination.

The witness was called in, and the examination resumed.

Did you experience any difficulty, while in her Royal Highness's service, respecting the payment of your salary? Yes, at one time there was a good deal of arrears due.

Did any other circumstance occur in 1817 which might have rendered your situation in her Royal Highness's service disagreeable to you? Yes; being obliged to attend at a time [here her ladyship was much affected], if my attendance had been required there, because I was then under great depression of spirits.

Had you not lost some near relative at that time? Yes; two.

Were they not the late Lord Guilford and Lady Glenbervie? Yes.

I wish to ask whether you yourself ever observed in the conduct of her Majesty, any impropriety which induced you to leave her service? I never myself observed any impropriety to induce me to resign.

*Examined by the Peers.*

The EARL of DONOUGHMORE.—I wish to bring to the recollection of your Ladyship the extent of the period for which you speak to her Majesty's conduct: you mentioned yesterday that you joined her Majesty at Naples about 10 or 12 days before she left that city? Yes.

Your Ladyship also said that you were one night on the journey from Naples to Rome; that you stayed two nights at Rome with her Majesty; and that you were 6 days at Civita Vecchia? Yes.

Then you were 21 days with the Queen, from the time you joined her at Naples until you embarked at Civita Vecchia, and 3 days on board the frigate on the voyage to Leghorn, making in all 24 days? Yes.

After quitting the frigate, her Majesty went one way and your Ladyship another? Yes.

Therefore, the opinion which your Ladyship is enabled to give of the conduct of her Majesty applies to 24 days only? Yes, in Italy.

And I think your Ladyship says you saw no impropriety in her Majesty's conduct with Bergami during that period? Yes.

Does your Ladyship recollect any part of her Royal Highness's English suite leaving her Royal Highness at Naples? Did



William Gell leave her Royal Highness at Naples? Yes, Sir William Gell did not quit Naples with her Royal Highness.

Did Sir William Gell remain in Naples when the Princess of Wales had quitted it; or had he quitted Naples? He resigned before the Princess left Naples, on account of his health not permitting him to travel to the North.

Was the Hon. Keppel Craven with the Princess at the time of your Ladyship's joining her at Naples? Yes, he was.

Did the Hon. Keppel Craven remain at Naples, or did he quit it with the Princess of Wales? No, he also resigned.

Was Capt. Hesse with the Princess at Naples? He was at Naples at the time I joined; but whether he was in the Princess's service or not, I don't know.

Did Capt. Hesse quit Naples with the Princess? Did he embark with you? No, he was not with us.

Were you aware of any other persons joining the suite of the Princess of Wales at Naples? Was Bergami in the service? I found Bergami in the service of her Royal Highness at Naples.

Did your Ladyship know any thing of Bergami's sister, Faustina, joining there? No, I did not.

Did your Ladyship know any thing of any body else connected with Bergami being there? I am not certain whether Louis Bergami was there; but Louis Bergami might be in the service of the Princess.

Does your Ladyship know any thing of the mother of Bergami, and whether she joined at Naples? No, I never heard of his mother till lately.

Do you know any thing of a child of Bergami's; of the child called Victorine? No: certainly no such child was with him at Naples when I was there.

In answer to a question put to your Ladyship, and answered just now, respecting your reason for quitting the service of the Princess of Wales, your Ladyship said that you had seen nothing improper; you have yourself seen nothing improper? No, I have seen nothing improper.

There was nothing improper that you have seen? No, I have not seen any impropriety.

Was there any report? (*A general call of "Order, order."*)

The EARL of DONOUGHMORE.—I only ask the reason which induced her ladyship to quit the service of the Princess of Wales.

Mr. Brougham objected to such a question being asked.

The LORD-CHANCELLOR.—It is certainly competent for any noble lord to ask whether there was any other reason which induced her Ladyship to quit her Royal Highness's service.

Mr. Brougham.—Reports of a very atro-

cious nature may have gone forth against her Majesty.

The EARL of DONOUGHMORE.—Order, order. I ask only into the reason of quitting her Royal Highness's service.

The LORD-CHANCELLOR.—No report of any kind can be evidence to your Lordships.

The EARL of DONOUGHMORE proceeded.—Had your Ladyship any other reasons except those which you have mentioned for quitting the Princess of Wales? There was nothing seen improper; but the reports were of so unpleasant and degrading a nature as to operate on my mind in quitting her Royal Highness.

The EARL of DONOUGHMORE desired that the questions and answers should be read to the House, which was done accordingly, and his Lordship then said, "I shall not trouble your Ladyship with any more questions."

By LORD CALTHORPE.—During your Ladyship's acquaintance with the conduct of the Princess of Wales, did you observe any familiarity on the part of her Royal Highness with her menial servants, both male and female? I only observed that her Majesty was particularly affable and familiar to all her servants.

Did your Ladyship think that her Majesty's familiarity towards her servants exceeded what is usual in the higher classes in this country? I think the higher classes are more condescending towards their servants than the class below them. Her Majesty was particularly so.

Was her Majesty's condescension peculiar even in foreign society? Perhaps. I am no good judge of foreign manners. Foreigners are more apt to converse with their servants than the English are. They have less reserve. Her Royal Highness had that familiarity which I observed in foreigners conversing with their servants.

Did the familiarity of her Royal Highness greatly exceed the degree of familiarity you had seen among foreigners by the opportunities your Ladyship had of seeing foreign society? No, not greatly.

When your Ladyship said that you had not seen any impropriety on the part of the Queen towards Bergami, or on the part of Bergami towards the Queen, had you reference to that peculiarity to which you have alluded?—I had.

Am I then correct in understanding your Ladyship, that, from the habit of seeing unusual familiarity and freedom in her Majesty's manner, circumstances might have passed unknown to you, which, in a person of more habitual circumspection and reserve, might have appeared extraordinary, and perhaps unbecoming?—I don't know that any thing appeared extraordinary or unbecoming in the manner of her Royal Highness. I observed her behaving to Bergami as to Si-

card, and various other persons in the family of her Royal Highness.

By the **EARL of LAUDERDALE**.—Your Ladyship mentioned that you had a communication from your brother, the Earl of Guilford: did your brother, in that letter, advise you to quit the service of the Princess of Wales? was that your brother's advice?—It was.

Have you the letter in your possession?—No, I have not.

Mr Brougham (while her Ladyship was answering the question) submitted, whether it was proper to examine her Ladyship respecting this letter.

The **LORD CHANCELLOR** said, the questions might be followed up by questions as to the letter existing in the possession of her Ladyship.

The **EARL of LAUDERDALE**.—I wish the Learned Counsel would object when the question is made. (*Hear, hear.*) I ask whether the difficulty of receiving your salary was the ground of quitting her Royal Highness, or whether the letter of your brother formed a ground of quitting?

Mr. Brougham.—Now really this cannot be the regular mode of examining.

The **LORD CHANCELLOR**.—You must object, Mr. Brougham, when the question is asked.

Mr. Brougham.—But the question is answered so quickly that it cannot be objected to before it is answered. Your Lordships ruled, after much argument, that no questions could be asked respecting a letter which was not in evidence.

The **LORD CHANCELLOR**.—The examination might be proceeded in till it should appear whether the letter was in the possession of the witness or not.

Mr. Brougham.—But there is here no ground for such examination.

The **LORD CHANCELLOR** asked her Ladyship—Do you know whether the letter is in existence or not? I believe not. I did not keep it.

Did you make any search for it? No, I have not searched for it.

The **LORD CHANCELLOR**.—Perhaps your Lordships will ask her Ladyship to search and to attend again.

Mr. Brougham said, he had no objection to the production of any letter. His objection was to receiving evidence, or directing a search for evidence, in a letter written by any one, except a party to the case. This was a third party who had been examined yesterday, and might or might not be examined respecting this letter, but of this he gave no opinion; but this letter was not written by her Majesty, but by another party, a stranger to this case. He objected to examination respecting a letter written by any party a stranger to the case.

The **LORD CHANCELLOR** apprehended that the clear law of this question was

thus:—"He sent me a request;" that was established by the one side. The other side had a right to say that answer should not stand, or they must know what that request was. If it could not be proved that the letter which contained the request was lost, no question could be asked upon it; and unless a search was made, and the letter was shown to be lost, their Lordships could not get at the data upon which the request was made.

**LORD ERSKINE** began by some observations which we were unable to hear. The noble lady had given her evidence with the greatest candour and firmness. (*Hear, hear.*) She had stated that she saw nothing in the behaviour of the Princess of Wales towards Bergami which appeared improper; but that reports had operated upon her mind, which reports were negatived by her own observation. Suppose the letter were to the very effect of stating what had been stated by her Ladyship, it must be wholly immaterial. But he would wait till it appeared whether the letter was found or not, before he should make his objection.

The **EARL of LIVERPOOL** said, he would give no opinion whether the letter, when found, could and ought to be produced; but the very first thing to be ascertained was, whether the letter was in the possession of her Ladyship. (*Hear, hear.*)

**EARL GREY**, in a low tone of voice, was understood to say, that if it was immaterial whether the letter should be produced or not, it was losing a great deal of time to order a search, and afterwards to re-examine respecting it. (*Hear, hear.*)

The **EARL of LAUDERDALE** proceeded.—When your Ladyship went into the bedchamber of her Royal Highness, did you go when you were not sent for, and without knocking at the door? I do not suppose I went when I was not sent for. Certainly I did not knock.

Do you recollect ever going when not sent for? I don't recollect. I did not go without particular business.

Your Ladyship said before, that when you went to Naples there was an arrangement for quitting: was that arrangement your proposal or her Majesty's? It was my proposal. Her Royal Highness wrote me a letter to join her at Naples, as I was still in Italy. I wrote for answer, that I would obey her Royal Highness's invitation; but said, that I hoped her Royal Highness would not object to availing myself of my brother's escort, as it was necessary for me to return at the beginning of next summer, and I could not return without an escort.

The **LORD CHANCELLOR** asked, by desire of the Solicitor-General—What month was it that you joined her Royal Highness? Upon my word I do not recollect, but I think it was June or July.

A Peer (we believe the Earl of Liverpool)

put a question to the Lord Chancellor respecting the production of the letter.

The LORD CHANCELLOR said he would give no opinion respecting the possession of a letter upon a hypothetical case. Nothing could be more dangerous.

The EARL of LIVERPOOL said he wished to know where they were—was a search ordered or not?

The LORD CHANCELLOR said, if any Noble Lord desired a search to be made, he might order to that effect. But if any question should arise upon the letter, after it was ascertained whether the letter could be found or not, that question could not be asked now. But if it contained only reports, it was impossible that any questions respecting such reports could be asked.

The EARL of LAUDERDALE desired that a search should be made for the letter.

The LORD CHANCELLOR. Search must be made for the letter.

Mr. Brougham (Lady Charlotte Lindsay having withdrawn). We undertake, my Lords.

The LORD CHANCELLOR. If Lady Charlotte Lindsay can find or cannot find the letter, you will communicate to the House.

Mr. Brougham. Most undoubtedly, my Lord.

*The EARL of LANDAFF was next called by the Queen's Attorney General.*

His Lordship stood upon the left of the Lord Chancellor.

*Examined by Mr. BROUGHAM.*

Was your Lordship in Italy in 1815? I was.

Does your Lordship recollect when you went to Naples? I went to Naples in the latter end of 1814, and remained there till April 1815.

Does your Lordship recollect in what month of 1814? In the month of November.

During your Lordship's stay had you frequent opportunities of seeing the Princess of Wales? I did frequently see her Royal Highness.

Did your Lordship frequently visit at her Royal Highness's? Very frequently.

Did your Lordship frequently dine with her Royal Highness? Yes.

Did your Lordship frequently dine in the course of a week? Yes. I dined with her Royal Highness once or twice a week.

Did your Lordship frequent evening parties at her Royal Highness's when you did not dine? Yes.

Was the Countess of Landaff in the habit of accompanying your Lordship? Most generally.

What society did your Lordship and the countess meet there? The generality of English there, and all Neapolitan noblesse of course.

During the time that your Lordship had that intercourse with the Princess of Wales, did you observe any impropriety in her conduct? No.

Did your Lordship observe any thing in the demeanour or habits—(I need hardly ask the question)—but did you observe any thing that made it at all improper for you or the countess to associate with her Royal Highness? Not the least.

Was Bergami there? Yes.

Did you see him? Yes.

Did you observe any thing at all improper in the conduct of her Royal Highness towards Bergami, or of Bergami towards her Royal Highness? Never.

Did your Lordship ever afterwards, after leaving Naples, meet with her Royal Highness? Yes, at Venice.

At what time of the year? In June or July.

Does your Lordship recollect at what hotel you lived? I believe it was at the Hotel d'Angleterre.

Where did her Royal Highness live? At the same hotel.

Did you there renew your intercourse with her Royal Highness? I did.

Was the countess with your Lordship there? Yes.

Did you there observe any thing improper? Not the least.

Did you ever happen to go into her Royal Highness's chamber? Yes, I went in the morning into her sitting room.

Did your Lordship knock? I cannot take on myself to say.

Does your Lordship recollect ever going without knocking? I cannot recollect: I rather think I did—for this reason, that I had a child to whom her Royal Highness took a fancy. But I am not sure.

Does your Lordship recollect having knocked? No, any more than not having knocked.

Were you in Italy any time besides the months you have mentioned? I was there two years.

Your Lordship can say whether it is the practice for men as well as women to visit ladies in the morning in their bedchambers? It is very common for men, as well as women.

Do men as well as women see women in bed? Yes.

Does your Lordship know, from your own knowledge, and your own practice and experience (a laugh), that it is so? I have many times visited of a morning when the lady was in bed.

Was that in the ordinary intercourse of society? It was.

Your Lordship speaks of ladies of high character and respectability? Yes, so far as I know.

Have you observed that other gentlemen uniformly see ladies in the same manner? I have.

Have you visited so with other gentlemen at the same time? I have, my brother and I visited so together.

Was that a morning visit? Yes, we went to make a morning visit.

*Cross-Examined by the ATTORNEY-GENERAL.*

When was it you saw her Royal Highness at Venice? In June or July.

In 1845—Yes.

Was Bergami there? He was.

What situation did Bergami fill? He acted as a courier.

Did your lordship dine with her Royal Highness then? Not at Venice.

Did your Lordship dine any where but at Naples with her Royal Highness? I never met her but at Naples and at Venice.

How long did you remain in the hotel? I continued there for a month.

How long did her Royal Highness remain? Upon my word I don't recollect.

My Learned Friend asked you whether you had been in the habit of entering the chamber of her Royal Highness, and you replied that you had: did you mean her bedroom? No; I said sitting-room.

By the EARL of LAUDERDALE—Your Lordship has said, that, when you visited her Majesty, there was another attendant waited upon her Majesty besides Bergami: does your Lordship recollect the name of the other attendant? No.

Can your Lordship state any particular circumstance, which impressed the name of Bergami upon your memory, without causing you to recollect the name of the other servant?—The figure of Bergami was singular; that impressed his name on my memory; I knew him again by that.

Am I to understand your Lordship that you became acquainted with his name by observing the singularity of his figure? I never asked his name; it was told to me; and the singularity of his figure, when he was pointed out to me, made me recollect it.

Do you recollect who it was that pointed Bergami out to you? I do not.

By LORD GRANTLEY.—Did your Lordship ever remark that there was any thing in the conduct of her Royal Highness which was calculated to reflect disgrace upon her country. I never did.

By LORD ELLENBOROUGH.—Does your Lordship recollect the ball which was given by her Majesty at her villa at Naples? I do.

Was your Lordship present at it? I was.

Do you recollect whether there was any thing particular in the dress which her Royal Highness wore upon that occasion? I do not.

*The HON. KEPPEL CRAVEN sworn, examined by MR. DENMAN.*

I believe, Mr. Craven, that in the year 1814 you were in her Royal Highness's service, as one of her Chamberlains? I was.

Did you leave England, and go with her Royal Highness to the Continent, in that capacity? I did not leave England with her; I joined her Royal Highness after she had left England, at Brunswick.

Did you accompany her Royal Highness from Brunswick to Milan and thence to Naples? I did.

When you joined her Royal Highness at Brunswick, was it stipulated how long you were to remain in attendance upon her? The time was not exactly fixed, but it was agreed that I should remain with her as long as my private affairs would allow me.

For what length of time did you remain with her Royal Highness? I remained with her more than six months.

Where did you leave her Royal Highness? I left her at Naples.

Why did you leave her? It was understood, upon my entering the service of her Royal Highness, that I could not attend upon her for more than 2 or 3 months at that time. When I arrived, however, I stayed with her Royal Highness till March.

Did you then stay with her Royal Highness 2 or 3 months longer than you had originally intended? I stayed with her 4 months longer than was my original intention.

Do you remember whether there was any courier discharged whilst you were at Milan for misconduct? There was none discharged at Milan—there was one discharged after we had left it, and another to be found in his stead.

Do you recollect, whether, in consequence of that circumstance, you applied to the Grand Chamberlain of Austria to assign you a person to supply his place? I applied to the Marquis Gizilleghiri for that purpose, who had been appointed by General Ballegarde to attend on her Royal Highness, during her stay at Milan, in the capacity of chamberlain.

Did the Marquis Gizilleghiri mention any person to you as fit to supply the place of the discharged servant? Yes, a person whom I afterwards found to be called Bergami.

Will you state whether the Marquis recommended Bergami as a person fit to be received and trusted in the service of her Royal Highness? I recollect that he did—he recommended him very strongly.

The Solicitor-General here made an objection, that what the Marquis had said in recommendation of Bergami could not be received as evidence.

The last question and answer were then read over: nothing further was said; and Mr. Denman proceeded with his next question.

Do you recollect whether he stated that he had any knowledge of Bergami's family? I recollect that he stated that he had known Bergami's family long, and that he was particularly interested in the success of Bergami.

The Solicitor-General here repeated the objection which he had just before taken to

the evidence, and maintained that the last question and answer ought to be expunged from the minutes.

Mr. Denman, on the contrary, maintained, that all which had yet occurred was material evidence. He should wish to argue the question.

The LORD CHANCELLOR observed, that whilst that point was discussing the witness ought to withdraw.

The witness accordingly stepped from the bar.

The LORD CHANCELLOR then called upon Mr. Denman to state the question which he wished to argue.

Mr. Denman.—The question was, whether the two last questions and answers were to stand upon the minutes, and whether he was to be allowed to continue his examination as to the family of Bergami. Now, he did not wish that either of those questions should stand upon the minutes, or that his examination into the family of Bergami should be allowed to continue, unless they were necessary to show that the family of Bergami was respectable, the allegation of the Bill being that a foreigner in a low situation—a menial servant, promoted highly beyond his merits. Now, if he proved that Bergami had been recommended to her Majesty, by the highest authority, as a person whose family was respectable, though in reduced circumstances, and whose conduct was such as to entitle him to consideration, and render him a fit object for promotion, he apprehended that he had shown sufficient cause why her Majesty had given to Bergami that promotion which it was now imputed to her as a crime that she had given; and it was therefore impossible to prevent him from showing that her Majesty's motives were pure, unless they wished to preclude him from entering into her defence altogether.

Mr. Brougham was proceeding to enforce the same argument, when he was interrupted by

The LORD CHANCELLOR, who said that, to save time, he would take the liberty of declaring, that if what had been said to the witness by the Marquis Giziliegghiri had been afterwards repeated to her Majesty, it might be admitted as evidence, because the manner in which her Majesty's mind must have been influenced on this subject was most material.

Mr. Brougham.—My Lord, our object is to show the manner in which it was influenced.

The LORD CHANCELLOR.—In that case the evidence must be admitted, as it is material to prove that there was a representation, true or false, which might have operated on her Majesty's mind, and on which her Majesty might afterwards act.

The witness was then called in, and his examination continued.

Did you know Bergami before the Mar-

quis recommended him as a fit person to serve her Royal Highness? Not at all.

Were you desired by her Royal Highness the Princess of Wales to make the inquiries which you did for such a servant? I was.

Did you communicate the result of such inquiries to her Royal Highness? I did.

Did you receive any communication from the Marquis about Bergami? I did.

Did you make known that communication to her Royal Highness? Yes. I told her that the Marquis Giziliegghiri had a person whom he wished to recommend—that he said that he could recommend him strongly having known his family for a long time, and that he wished to get for him a good situation.

Did you state to her Royal Highness any thing about the situation in which he was to be engaged? I told her all the Marquis had said. The Marquis said he hoped that he would be continued in the family.

Did the Marquis say any thing about Bergami's being promoted? He said that he hoped that Bergami, if he behaved well, would be promoted. He likewise added, that he hoped that Bergami might remain as a servant out of livery in the house, if her Royal Highness stopped long at any place.

Besides this, did he state any thing particular? He said that he had known him a great while, and that he wished to promote his interests.

Did you ever see the Marquis and Bergami together? Yes, at Milan and at Placentia.

Besides the recommendations which the Marquis gave you of Bergami, did you ever observe the manner in which the Marquis treated him?

The Solicitor-General objected to this question, and Mr. Denman did not press it in that shape.

Did you mention the manner in which Bergami had been saluted by the Marquis?

The Solicitor-General objected to this question. It was like many others which had been put—a leading question.

Mr. Denman challenged his Learned Friend to show that he had put any leading questions.

The LORD CHANCELLOR here said, that the proper way of putting the question whether, besides the circumstances of the recommendation, he had observed any thing particular in the behaviour of the Marquis to Bergami.

Did you observe any thing particular in the behaviour of the Marquis to Bergami? The Marquis told me that he knew much of his family: he said that he wished to be of use to him; and that he was particularly interested about him, as he had been of service to some friends of his.

Did you go to Naples along with her Royal Highness? I did.

Did any thing particular occur on your arrival at Naples? We were met at a short distance from the town by the then King of



Naples: first of all by his officers; afterwards by the King himself.

Did you take any refreshment any where? We slept three nights on the road. we entered Naples on the 8th November, half an hour before dark.

What time might it be by the clock? Half-past six o'clock, I think.

Did you go immediately to the house which had been taken for her Royal Highness? On entering Naples, we drove immediately to the house which had been taken for us.

Did her Royal Highness then take possession of that house? She did.

Did you remark any thing particular about that house on your arrival in it; I mean with regard to the conveniency of its arrangements? The house was most inconvenient. Sir Wm. Gell and myself had two very bad rooms.

Was there room for the whole of her Royal Highness's suite? There was no room for the whole of the suite by any means.

Were you and Sir W. Gell obliged to take lodgings in consequence of the inconvenience of the arrangements? We agreed to look out for lodgings immediately; indeed we did look out for them early in the morning of the next day.

Do you recollect any person calling on her Majesty the day after she arrived at Naples? Yes, the King and Queen of Naples called upon her.

Do you recollect where her Majesty dined that day? She dined at Court.

Was there any entertainment given at Court after dinner? Yes, a small concert.

Do you know how late her Majesty remained at that concert? She left it about half-past eleven o'clock.

Did you leave it with her? Yes, I was in waiting.

On the second entire day, after her Royal Highness's arrival at Naples, do you happen to recollect where she passed the evening? I do; she spent it at the Opera.

Did you go with her that evening? Yes; her whole suite accompanied her there.

Were there any other persons whom you recollect with her? We went from her house to the palace, and from thence to the Opera with the King and the Court.

Do you recollect the box in which her Royal Highness was seated? I do; she sat in the state box, with the King and Queen.

Do you recollect whether there was any illumination in the house that evening? The whole house was illuminated in honour of her Royal Highness.

Did you return home early, or how, that evening? No, the Opera at Naples is always late, and we remained till the conclusion.

Was the Opera earlier or later than usual on that evening? It was rather later, because it had begun later.

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What was the usual hour of the Opera's ending at Naples? It varied according to the time of the year.

At what time did it end in November? That depended on the length of the dance.

What is your recollection of the dance on that evening? That it was very long and very tiresome.

Did her Royal Highness stay to the conclusion of the Opera? Yes, till the curtain dropped.

Do you remember a masquerade, or a masked ball, that was given by her Royal Highness as a compliment to the reigning King? I do.

Do you recollect the dress of her Royal Highness upon that evening? I do; she had three dresses; two of them I recollect very well; the other I do not recollect so well, as I only saw it for an instant.

Will you mention the nature of the two dresses which you recollect? One was a Turkish dress; another was the dress of a Neapolitan peasant; the third was that of the Genius of History, as I was told.

Did you see her in that dress? I did for a short time.

Will you state whether it was in the smallest degree improper or indecent? I don't recollect that it was at all indecent.

Do you recollect how that dress was about the breasts? It was a dress of white drapery, that came up very high to the breast, very high.

Do you recollect what dress she wore before that dress? I do not know entirely; but I think that it was a Turkish dress; the last dress which she wore was the Neapolitan dress.

As far as you can recollect, at this distance of time, might it have been possible for her Royal Highness to have put on the dress of the Genius of History over her Turkish dress? I don't know, because I did not notice that dress much; but I think it certainly might have been put on over the Turkish dress.

Would it be necessary that her Royal Highness's dress should be entirely changed when her Royal Highness shifted her dress from that of the Turkish peasant to that of the Genius of History? It would not be necessary entirely to change it; I should think it might be got on by changing only a part of her dress.

Bergami, you have told us, was engaged at Milan: did he attend her Royal Highness from Milan to Naples, and were you in her service all that time? Yes.

Did you ever observe any impropriety of conduct or any degrading familiarity to pass between her Royal Highness and Bergami during the time which elapsed from Bergami's engagement at Milan till your departure from Naples? I never did.

X 3

Have you dined subsequently at table with Bergami and the Queen? I have,

Frequently? Three times.

On any of those occasions did you observe any sort of impropriety pass between them? Never.

Do you know the Countess of Oldi? I have seen her once.

Is she a person of vulgar manners? No, (in a decided tone)

Do you remember having any conversation with her Majesty about William Austin before the journey to Naples? Yes, I do.

Will you state what that conversation was? I think that I told her, before she set out for Italy, that it would be as well if William Austin should cease to sleep in her room.

Did you state to her Majesty any reason for giving her that advice? I said that the people of Italy might make some observations upon the circumstance.

Did you say thing about Austin's age? I said that he was of an age that might apply to such observations.

Do you know what his age was at that time? I do not.

Was it 6 or 7 years? It was 13 or 14, according to my idea; but I had no means of judging, except by his looks.

Did you dine with her Royal Highness in general? Yes, whenever she had company.

When you were so dining with her Majesty, did it ever happen that you saw the Baron Ompteda at her table? Yes, very often.

On those occasions, which you describe to be frequent when the Baron Ompteda dined at her Majesty's table, had Theodore Majocchi any opportunity of seeing him? He must have seen him when waiting at table.

Did he often wait at table? Every day when there was company.

On the death of his late Majesty, did you attend her Majesty at Rome? I came to Rome very soon after that event, and I waited on her Majesty the day after my arrival.

Did her Majesty leave Rome shortly afterwards? She left it the day afterwards.

Do you know, with reference to the obtaining of a passport, or any other official proceeding, by what style and title her Majesty was called, after she had become Queen of England? I understood that the passport—

The Solicitor-General.—What Mr. Craven understood about the passport could not be admitted as evidence. If it was requisite that the contents of the passport should be made known to their Lordships, it must be by the production of the passport itself.

Mr. Denman.—Mr. Craven had not spoke of understanding the passport. He said he understood that the passport, &c.—

The question was again read from the short-hand writer's notes.

The LORD CHANCELLOR was of opi-

nion, that if that question meant and purported to be one as to the contents of the passport, it would not do; if it was meant to ascertain by what style and title application was made for the purpose of obtaining it, it would do.

Mr. Denman, in explanation, said, that he required the witness not to speak to the contents of the passport, but to the mode of application, as regarded the style and title.

The LORD CHANCELLOR.—You are applying yourself, then, not to its contents, but only as to the application made for it?—Clearly to the contents?

Mr. Denman.—No, my Lord, not to the contents, but to the style and title in and by which application was made, to induce the proper authorities to give her Majesty the passport. (To the witness.) "By what style and title, as regarded her Majesty, were the necessary passports agreed to be granted?"—

[The Solicitor-General repeating his objection, Mr. Denman declared that he would not once again press the question; let it be erased, if the Learned Counsel pleased, from the minutes of the evidence.]

Mr. Denman.—You say that you saw the Hanoverian minister at Rome. Was he the Baron Reden? He was.

Is the Marquis Gizilleggeri now alive? No, he is dead.

By the Solicitor-General.—Do you recollect where the conversation you have mentioned about young Austin took place? I cannot recollect the place, but it must have been soon after we left Brunswick.

Did I understand you right that that was a recommendation which you gave to her Royal Highness with reference to Italy? It was.

Then it was a recommendation that was prospective on your part? It was so.

You have mentioned to my Learned Friend that you saw the Countess Oldi once. Will you mention where it was? At Pesaro.

Did you dine at Pesaro on that occasion? I did so.

And you saw her at dinner? I saw her at dinner.

You have mentioned that you have dined at the same table with Bergami? I have, three times.

Mention, if you please, where and when—the first time? The first time was at Pesaro; that was at supper, not at dinner.

Were the other two occasions at Pesaro, also? One was at Pesaro; the last at Rome.

Was it at Rome, on her Royal Highness's way to this country? It was the day before she left Pesaro, on her way to this country.

Did you accompany her Royal Highness? No.

You parted with her, then, at Rome? I did.

I understood you to say, that at the masked ball at Naples, at which the Princess appeared, you took no particular notice of the third dress worn by her, as the Genius of History? That was the second dress, not the third: I said I saw it, but for so short a time, that I could not observe it so much as the others.

Did you see Bergami at that ball? I don't recollect that I did; but all the servants were there.

Did you go up into her Royal Highness's bed-room? No.

In no part of the evening? In no part.

You have been asked whether, in that instance of the masked ball, it was necessary for the Princess to take off the whole of her first dress, for the purpose of putting on the second; whether the first dress was taken off or not? I cannot say whether it was taken off; or not.

Did you and Sir W. Gell live out of the house, during the whole of the time you were at Naples, except the first day? I believe that out of the house we slept two nights.

The rest of the time, then, you were in the house? Entirely; we dined in the house.

Did you not usually come to the house merely for the purpose of dining? We took our waitings in turn; the person who was in waiting was in the house all day long.

Where was the room in which you waited, with reference to her Royal Highness's apartment? It was in the end-room of the opposite suite of rooms; and there were two rooms between it and her Royal Highness's chamber.

You have said something as to the disposition of the rooms on the first night of your arrival at Naples; do you yourself personally know what it was? I only know it with regard to my own rooms, and those of the lady in waiting.

Was there any circumstance to make you know in what room Bergami slept on the first night? No.

Nor what room was appropriated to him on the first night of your arrival at Naples? No; I heard nothing about it.

Did you ever, either to Lady Charlotte Lindsay or any other person, state that you had made representations to her Royal Highness as to what had been observed with respect to her Royal Highness and Bergami on the terrace of the garden attached to the house at Naples? I did say so, but not to Lady Charlotte Lindsey; I mentioned it to a person at Naples; I mentioned that I spoke to her Royal Highness about it, but that was with regard to what I had observed.

You will have the goodness to state what you saw, and what you represented? I saw her Royal Highness walking in the garden, and Bergami near her. I knew

that there was a spy too, at that time, in Naples; I had received information to that effect, which had been conveyed to me from England. That being the case, I thought it necessary to caution her Royal Highness about any outward appearances, which might be misconstrued.

When you say that information of there being a spy upon her Royal Highness was conveyed to you from England, do you mean by letter? It was by letter.

Was any other person in the garden, except her Royal Highness and Bergami, at the time to which you allude? She said there was.

Did you see any other person? No; because she walked on a sort of terrace, which was much higher than the rest of the garden. There may have been other persons, whom I did not see.

Do you know whether that terrace was near the small cabinet which was contiguous to the room of Bergami? I cannot tell, for I never was in the garden, nor in that part of the house.

Where was the spot from whence you saw her Royal Highness and Bergami walking together? From the terrace on the opposite side of the house, near the lady-in-waiting's apartments.

What lady was that; the lady Elizabeth Forbes? It was.

Was that terrace on the same elevation with the one upon which her Royal Highness was walking? No—higher.

When you say higher, do you mean to say that the terrace near the apartment of Lady Elizabeth Forbes was higher than the other? I think so.

Where was Bergami on the terrace? He was on the same level with her Royal Highness.

How far was her Royal Highness from the corner of the building which terminates the terrace? I don't know; she was walking at a round pace.

How long did you see her there? I only saw her from one end of the terrace to the other, as she walked up.

And during that time you saw no other person but Bergami? I saw no other person but Bergami during that time.

Was that the only time that you ever saw her Royal Highness and Bergami in the garden together? The only time.

How long was this after your first arrival at Naples, as nearly as you can recollect? Not very long; they were making some alterations, I remember, in the garden.

Will you have the goodness, as nearly as you can, to state whether it was a week, a fortnight, or a month? I really cannot say, exactly, how long it was.

Was it a fortnight or three weeks? I should say more than a fortnight.

And less than a month? It might be a month.

Did her Royal Highness tell you who the other persons were that were in the garden? She said there were workmen in the garden.

Then her Royal Highness did not tell you that there was any other person in her company in the garden? No; she said that she had taken Bergami with her to speak to the workmen.

When you saw her Royal Highness on the terrace, how was she employed—was she walking? She was walking.

And Bergami also; he was walking on the terrace? He was walking there also.

In the same direction with her Royal Highness? Yes.

What was the business about which the workmen were employed? I understand—  
(Cries of "Order.")

No; you must speak of your own knowledge? They were transplanting, I believe.

Of your own knowledge, at that time, in short, did you yourself see any workmen? No.

From the terrace which is contiguous to the apartment of Lady Elizabeth Forbes, have you not an extensive view of the garden? No.

Did you not see from that terrace to the extent of the building? Yes, of the house.

And the garden in front of it? The garden is not in front; it is only at one side.

If they are working in front of the house, must you not, from the terrace where you were, have seen the workmen? I could not see them, because they might be below the terrace.

Then, if there were any workmen, you think they were down below? Yes.

In point of fact, therefore, you of course saw none? No.

Were you ever in the garden yourself? Never.

Of your own knowledge, were any workmen employed? I heard so.

But you don't know it of your own knowledge? I never saw any.

How long before her Royal Highness quitted Naples did you leave her service? I did not leave it till she quitted Naples.

Do you remember, a short time before that, Bergami's coming into a room where you and Sir William Gell were? He came into the room very often when we were in waiting.

Do you remember his ever coming in, not in his dress of a courier, but in a black dress? He never wore the dress of a courier after coming to Naples.

Do you remember, at any time, his coming into a room where you and Sir William Gell were, and him taking a chair? Never.

No such thing, then, ever happened in your presence? Not in my presence.

I need hardly ask you, after this, whether you ever stated such a thing? Certainly not; I have no recollection whatever of doing so.

Were you ever at the theatre San Carlos? Very often.

With her Royal Highness? Whenever I was in waiting, and she went to the Opera, I attended her; and sometimes I did so when I was not in waiting.

Were you ever at the theatre of San Carlos when her Royal Highness was there, and you were not of her party?—Yes.

Were you ever there at a masquerade, when she was masked, and you were not of her party? I never was there when she was at a masquerade. I was never at a masquerade but once when her Royal Highness was at Naples.

[Mr. Craven here observed, that he understood the first question to be asked with regard to the Opera at the theatre of San Carlos.]

During the whole time you were at Naples, then, Bergami acted merely in the capacity of a courier? Yes.

And waited at table? He waited at table every day.

How many other couriers were there at that time? No others.

What was Hieronymus? He was considered a page, I believe, when we were not travelling.

Mr. Denman informed their Lordships, at this part of the examination, that he had no farther questions to put to the witness.

By LORD ERSKINE.—At the masked ball, of which you have spoken, you appear to have particularly noticed one of the three dresses assumed by the Princess, so as to be able to describe it. I wish to ask whether, if any one of those dresses had been grossly immodest or indecent, you must not have observed? I must have observed it.

Did you observe any dress of her Royal Highness upon that occasion to be immodest or indecent?—No; not one.

By the EARL of ROSEBURY—Was the advice you gave, with respect to the removal of young Austin from her Royal Highness's bedchamber, complied with? I understood it was followed.

The Solicitor-General objected to this answer. It was not asked what Mr. Craven had understood. Mr. Craven explained that he said he understood so, because he was never in her Royal Highness's bedroom to see it.

A PEER.—Then you do not know it of your own knowledge? I saw it followed, myself, in one place where we slept, as we were travelling.

The EARL of DARNLEY.—Have you any knowledge with respect to the passport granted at Rome—that particular passport to which your attention has been directed by the examination of the Queen's Solicitor-General? (Several Peers here desired the short-hand writer to read his notes of Mr. Denman's questions upon the subject: the short-hand

writer begged to state, that they had been struck out, by desire of counsel.)

Did you ever see the passport? I saw the passport, but I never read it.

A PEER.—The advice about young Austin, did it proceed from yourself, or in consequence of your opinion being asked by her Royal Highness. You have said, that you saw her Royal Highness walking near Bergami? Were they only near to, or did they touch, each other? They were near only.

Was there any appearance of impropriety in their behaviour? None.

LORD ELLENBOROUGH.—Were the manners of Bergami those of a gentleman? They were not so cringing, fawning, nor servile, as those of Italian servants are.

Were his manners those of a gentleman? When I have seen him in that capacity, they were; before that, I had very little opportunity of knowing him.

The EARL of LIVERPOOL.—Independently of that letter, which you received from England, representing that her Royal Highness's motions were watched, what other reason had you for giving her a hint with respect to her walking with Bergami in the garden? I had no other reason.

Would you have given her the same hint with respect to any other servant whom you might have seen her walking with? Exactly the same.

A PEER.—Did Mr. Craven discover in the manners of Bergami, or in his appearance, the appearance or manners of a man who had been raised from a low to a high situation? Certainly not.

The EARL of DONOUGHMORE, said, that from the former part of the witness's evidence, it resulted that, at the time to which he then spoke, Bergami was in the capacity of a servant. He wished to know what was the period at which Bergami ceased to be a servant, and began to be a gentleman?—I do not know the period; for I was not with her Royal Highness at the time of his promotion.

The EARL of DONOUGHMORE wished to know what period it was to which the witness had directed his answer? Mr. Craven said, that the first time he saw Bergami, after his elevation, was when he was raised to his situation of chamberlain, which was sometime ago; more than a year.

The EARL of DONOUGHMORE.—He had not begun to be a gentleman, then, when he was walking on the terrace?—(A laugh.) No.

All that you have spoken, respecting Bergami, relates to when he was in his first capacity—namely, that of a courier, or servant, and not that of a gentleman? I have spoken to both times.

I speak of the period of your continuance with the Queen? When we were with the Queen of Naples, he was considered as a

servant, and waited on her Royal Highness.

When did he commence to be a gentleman? I don't know what the period was. I did not see her Royal Highness afterwards for four years.

By EARL BATHURST.—You said that you saw the Countess of Oldi at Pesaro with her Royal Highness; was there any other lady there present? At the time I dined there, there was present another lady, whom I did not know.

What company was there at supper? Was the Countess of Oldi there? No.

What company was there at Pesaro?—Merely her attendants.

What ladies were there? There was a young lady, whom I don't know.

Was she an attendant? I believe not.

There were no others there? I don't recollect any others.

LORD ERSKINE.—You said that, when Bergami was permitted to dine at table, in his new character, you saw nothing in his appearance or manners inconsistent with those of a gentleman? Did you see nothing of this nature? No.

A Peer asked, were the gentlemen of her Majesty's suite with her in her journey to Naples? Yes, they were always near the Queen.

Who were generally near her? Some of the upper persons of the household.

Do you recollect who particularly were near her; mention their names? There were, I think, Hieronymus, Steward, and others.

The EARL of LAUDERDALE. Do you remember the date of the time when you went to Pesaro? Yes, I do.

Mention the year and month? It was last year.

Did you see Bergami then? I did.

Were you introduced to him? No, I was not; I remember he came to me at the inn where I was, with a message from her Royal Highness.

Who came with him? William Austin, I think.

Was your servant in the room when he came in? No, I believe not.

Were you dressed when Bergami came in? I was; it was after dinner.

You cannot say if your servant was in the room? I don't recollect.

What did you do when you received that message? I prepared to go and sup with her Majesty.

Who were at that supper? There were several persons whom I cannot particularly recollect; there was Colonel Vassalli and others.

Were you with the Queen that night before supper? Yes, I was, for some time.

Do you remember any singing among the company on that night? Yes, I recollect a lady sung a song by her Majesty's desire.



Do you know the name of that lady?—I do not.

Now her profession? I do not.

Did you make any inquiry where Bergami served before he entered the Queen's service? No; but Sicard, I believe, made every inquiry of the Chamberlain who recommended him to the Princess.

On your arrival at Naples, you say, you agreed to go into lodgings out of the house where the Princess resided. With whom was that agreement made? With her Royal Highness.

Did you state the necessity of it to her Royal Highness? I did. I represented to her Royal Highness, when we arrived at Naples, that the rooms were very bad, and the change necessary.

**THE EARL OF BELMORE.**—You say, Sir, that you knew Bergami first as a courier, and afterwards as a gentleman? Yes. Does Mr. Craven know whether her Majesty the Queen conferred any further honors upon Bergami than elevating him from his courier's place to his station as a gentleman? I do not of my own knowledge; I know nothing further but what I heard by general report.

**LORD COMBERMERE.**—When you saw Bergami walking on the terrace, how was he situated towards her Majesty? He walked a little in the rear.

That is, as a servant attending his mistress? Yes.

What harm was there in that? I saw none.

Then why did you think it necessary to give her Majesty the hint? I saw no impropriety, but to put her Majesty as much on her guard as possible.

Mr. Craven was then ordered to withdraw.

**SIR WILLIAM GELL** *acorn.*

Before his examination commenced, Mr. Williams applied to their Lordships for the accommodation of a chair for Sir William, as he was indisposed.

**THE LORD CHANCELLOR.**—“My Lords, I understand Sir William Gell has got the gout; he is most certainly, therefore I hope, entitled to a chair.

[The Noble and Learned Lord pronounced these words with great emphasis, and feelingly shook his head when he named “the gout.” This occasioned considerable laughter in the house, for his Lordship, who is known to have severe attacks of this malady, spoke with evident feeling and sympathy.]

**SIR WILLIAM GELL** *examined by MR. WILLIAMS.*

You, Sir Wm. are, I believe, chamberlain to her Majesty the Queen? Yes, I am.

How long have you been in her Majesty's service? From about a month before her Majesty went abroad.

Did you accompany her abroad?—I did.

How far did you accompany her Majesty? I went to Brunswick, and from thence into Italy.

Do you remember a courier being discharged from her Majesty's service after you arrived in Italy? Yes, I do.

Where was he discharged? I believe he was ordered to be discharged at Florence, but he went on to Milan.

Did you apply for any other courier to succeed him? Yes, I did.

To whom do you recollect did you apply? The application was made to the Marquis de Giziliegbi. I know the Marquis came and offered a person to fill the place.

Did you communicate this recommendation to her Majesty? I believe I did, I think I did.

You are certain she knew it? Yes, certainly; for I was empowered by the Queen to make the inquiry, and I made it accordingly.

What was the name of the person recommended by the Marquis?—The name of the person was Bergami.

Did you report to her Majesty, that Bergami was a proper person? Certainly I did.

Did the Marquis also recommend Bergami to her Majesty in your presence?—I think he did.

On any of the occasions in which the subject was mentioned, can you recollect what the Marquis said of Bergami in the presence of the Queen? He said that he knew Bergami's family, that they had fallen into distress by the events of the French revolution; but that the man himself was perfectly honourable, honest, and trustworthy, and would be found so in any situation in which he was employed. He stated that Bergami was above the office into which he was about to enter, and he hoped that the Princess, if he behaved well in the family, as he was most certain he would, would gradually advance him in her household.

Do you remember to have ever seen the Marquis and Bergami in a room or in the street together?—Yes, I do.

What opinion did you form of their intimacy?

Mr. Park objected to this question as irregular. He could not consent to the witness stating any thing in this way as matter of opinion.

Mr. Denman rose to support the propriety of the question, but before he entered into his argument.

**EARL BATHURST** suggested, that Sir Wm. Gell should not be present while counsel made any comment upon the answer he was about to give.

Sir Wm. Gell was then ordered to withdraw.

Mr. Denman contended for the propriety of the question just put. He said it lay upon her Majesty's Counsel to shew that

Bergami was not a person of that low and despicable rank which the other side attempted to show. It was surely evidence of his situation in life, to show in what view it was held by a Marquis who was the chamberlain and representative in Italy of the Austrian Government. Looking, therefore, at this question, not according to the little technicalities of law, but as a great and leading and necessary question in behalf of her Majesty, he must say, that if it were not allowed to be put, the greatest injustice would be inflicted.

Mr. Williams then contended, that, in point of strict law, comparatively unimportant as was that consideration, he was strictly regular in putting the particular question. Suppose he had stood a mute behind the table of any Noble Lord who heard him, and that on a future occasion he was seen treated by the condescending familiarity of another Peer as an equal, would it not be competent for him to adduce the evidence of any body who had seen the familiarity displayed, for the purpose of rebutting any inference that might be drawn from the previous circumstances?

The LORD CHANCELLOR said that the opinion of the manner of any body was not evidence, but if any act was seen done by the parties, then the act might be made evidence.

The EARL of LIVERPOOL remarked, that one of the individuals alluded to was dead, and could not of course be called to speak to any part of the transaction.

Sir William Gell was again called in, and his examination resumed.

Did you see the Marquis Gisslieghiri take leave of Bergami at any time? Yes, I did.

In what manner did he conduct himself then towards Bergami? I remember when Bergami was about to mount his horse at Milan, the Marquis went up to take leave of him. It was in the public streets of Milan, and the Marquis was dressed in his uniform Chamberlain to the Emperor of Austria; he was also at the time attended, I believe, by his Deputy Chamberlain, and I think other Austrian officers. The Marquis on this occasion, advanced to Bergami, took him round the neck, and kissed each of his cheeks, according to the general custom of salutation in Italy.

Do you mean the custom among equals, or between a master and an inferior person? I mean among equals, certainly; perhaps not otherwise.

Do you remember the approach of her Majesty and suite towards Naples? Yes, I do.

Do you remember the Queen's being met near Naples, by the then King, Joachim Murat? Yes, I do.

Where did Joachim meet the Queen? At Ayerza, 6 miles from Naples.

Do you recollect the house prepared for

the Queen's reception at Naples? Yes, I do.

What sort of a house was that? It was a good house, but not large enough for the whole of the Princess's suite.

There was not sufficient room? No there was not.

Do you remember whether the Queen of Naples called upon her Majesty on the morning after her arrival at Naples? Yes, I do: I remember it well, for it was my duty to be in attendance.

How did her Majesty dispose of herself on the evening of the day she received the visit of the Queen of Naples? Her Majesty went by the invitation of the Queen of Naples to a concert at the palace on that evening.

Do you remember how late her Majesty remained at that concert? She remained at the concert until half-past 11 or 12 o'clock.

Do you remember any thing of the particular state in which her Majesty left herself during that evening? Not in particular, except that she was very fatigued after her journey, and also from the very great length of the concert, which was uncommonly long, and very tedious.

Do you know where the Queen went on the following evening? Yes, for I was then in attendance: she went on the following evening in state to the Theatre of St. Carlos, when the state box was brilliantly illuminated for her reception. The King and Queen of Naples were in the box with her Majesty.

What was the entertainment? It was an opera: the opera of *Mulien*; and a ballet followed.

How did her Majesty return from the theatre? In the same state in which she spent. At what o'clock in the night? It must have been 12 o'clock or half-past 12 o'clock. I recollect it very well; I was very tired, of standing behind her Majesty's chair, being lame at the time.

Was there a garden attached to the house in which her Majesty resided in Naples? Yes, there was.

Were there workmen employed in that garden? I think there were; a few of the trees had fallen over some of the paths, and men were employed to sail them up.

Do you remember the Queen's having given an entertainment to the King of Naples? Yes; I was present, and remember it perfectly well.

Do you remember the ceremony of crowning a bust? Yes; I remember it.

How did it take place? The attention of the company was directed to a door which was thrown open for an instant, just this way [Sir William here moved his hand to and fro, as if opening and slamming a door], and a duchess, a countess, and a marquis of the Neapolitan nobility, were seen. One of the ladies placed a wreath of olive upon the statue, and the door was instantly closed again.

Do you recollect the sort of dress which her Royal Highness wore upon that occasion? As far as I have any distinct recollection of that circumstance, it was a dress resembling that of the Cariatides; the drapery was that of Mr. Hope's Minerva.

Did it resemble the drapery attached to the figure that you mention? It certainly did.

In point of fact, was it a long and ample dress? It was.

Were the Dutchess and Countess, to whom you alluded, attired in the same way? They wore the same kind of dress, or something very like it.

Did the dress then of these ladies, viewed together, appear to you to be a becoming and fit dress for the occasion? It did not appear to me extraordinary or unfit: the door opened like a flash of lightning, and indeed it seemed intended that this should make a part of the representation.

Did you quit her Royal Highness at Naples; and if you did, what were your reasons for so doing? I quitted her Royal Highness with her permission; I was tired, and indeed unable to attend her in the way she travelled; I had been previously much troubled with the gout.

Did you afterwards meet or see her several times? I did.

Do you remember the first of these occasions? Yes, I met her Royal Highness on her return from Palestine, and accompanied her to Rome, where I went into waiting.

How long did you remain in waiting? During the period of her Royal Highness's stay at Rome.

Do you recollect whether any persons of distinction visited her during that period? Many persons of distinction waited on her, and paid her their respects.

Have you any clear recollection on that subject? I have; I presented many myself I distinctly remember, as a circumstance which I thought remarkable at the time, that, whilst several members of the house of Bourbon attended in their own proper character, their name was adopted by some Princes of the house of Braganza; I mean of the reigning family in Portugal. The Count de Blacas also attended.

Did your interview on meeting her Royal Highness on her return from Palestine, continue immediately after its commencement? No, not exactly, but I followed on the same route.

Did you attend her Royal Highness in the course of the following year? I did; I attended her both at the Villa Grande and at the Villa Frascati.

How long did you remain in that attendance? About three months: I cannot say whether more or less.

At that time did persons of distinction visit her? A great many.

What was your reason for withdrawing

your own attendance at the expiration of the period that you have mentioned? Her Majesty was about to proceed to the north of Italy, and she gave me leave to go to Naples.

Do you know to what part of Italy her Majesty was then proceeding? She had some idea, as I understood, of going to Como, where a large party was to be formed: a Prince de Saxe-Coburg was one, but the entertainment was, I believe, for some reason, postponed.

Have you been in attendance on her Majesty lately; that is, on any recent occasion? I waited on her Majesty several days during her progress through the Roman territory, after she had succeeded to the title of Queen of England.

Were you applied to at that time to procure a passport for her Majesty? No, the passport was obtained by another person.

Did you inspect that passport, or wait for its arrival? I saw an order for post-horses—an order which is an equivalent to a passport—signed "Consalvi," secretary of state to his Holiness the Pope.

Is an order of that kind usually left with the postmaster at the first stage? It is the custom to leave it with the postmaster.

Do you know whether it was so left in this instance?

The Attorney-General submitted that his Learned Friend was now entering on a course of examination that was objectionable on two different grounds. In the first place, the contents of a written instrument were not, by a fundamental principle of law, admissible in the shape of parole evidence. At the same time he thought it manifest that the circumstances to which this part of the examination was directed were not material to the question which their Lordships had to try.

Mr. Denman said, that in answer to these objections, as briefly stated on the other side, he had to remark that the rule of law, as observed in practice, was to receive evidence regarding the contents of a written instrument, if that evidence was shown to be material to the general issue. It had already appeared that, conformably to usage, the passport in question was left with a postmaster in Italy.

The EARL of LIVERPOOL begged to remind the Learned Counsel that it was not a regular passport, but an order for post-horses.

Mr. Denman.—It operated as a pass-port: according to the strictest rule observed in the strictest court, he was entitled, after previously indicating the materiality of the question, to render evidence as to the contents of any document. If his Learned Friend (Mr. Williams) were allowed to pursue his examination, he would assure their Lordships that very important facts would be discovered. He would undertake to say, that the questions put by his Learned Friend,

upon this subject, were most material, as affecting the interests of his Royal client. It would be proved, if their Lordships received the information, that in this passport, or post-horse order, or document of some kind, her Majesty was treated by the Secretary of his Holiness in a very extraordinary manner. They would find that his Excellency thought proper to describe her in that document as the "Princess Caroline of Brunswick," after being fully apprized that she had become Queen-Consort of England. The Pope's Secretary of State waited not for any judgment of the British legislature,—he asked not for any act of parliament to dethrone and degrade a Queen, in order to justify his conduct. He would undertake to say, that, if not restrained, a great deal more of important matter would be adduced. It might possibly appear that the Secretary of his Holiness had acted in this way at the instigation of the Hanoverian ambassador—he meant the Hanoverian minister at the papal court. It might be shown that all the means which are of usual force to corrupt and influence the human mind had been employed with an activity truly remarkable. The point, however, on which he now rested, was, the strict, fair, and legal admissibility of such evidence, at this stage of the proceeding. Even although a doubt existed on the technical propriety of the question, yet its importance to the elucidation of truth, its importance to the honour of a Queen, charged with the crime of adultery, and its importance to the honour and happiness of the whole British nation, were considerations that would necessarily impress themselves on their Lordships' minds and exercise a salutary influence on their judgment.

Mr. Williams, on the same side, argued, that supposing the preliminary objection to be of that kind that must prevail in the courts below, or in the trial of an ordinary case, it was not a complete or valid objection in the present instance. But in every court of justice the materiality of evidence was a consideration to be entertained. No rule of admissibility was so strict as to exclude evidence that might effect the real merits of a case. It was always open, after the reception of such evidence, to determine whether it should be allowed to operate on the judgment which was to be ultimately pronounced. The present question came distinctly within the latitude sanctioned in courts of subordinate jurisdiction; and where, if a written instrument were shown to be lost, parole evidence of its contents was regularly admitted. No doubt could be entertained that a document had in this case been left abroad—left in a part of Europe where their Lordships could exercise no control, and from which there was no positive means of recovering it. It was like a document shown to be lost, or to be no longer in existence.

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These were the considerations which seemed to him applicable to the first and only question which it was now necessary to discuss—the question of admissibility: whether the evidence was material or not was a subject for further and subsequent consideration.

The Attorney General, in support of his objections, thought it extremely unfortunate that, whenever, in the discharge of a duty which he could not abandon, he did object, on principles of law, to the course which was pursued on behalf of the defence, his Learned Friends should break out into invective, and, instead of a distinct answer, should appeal to the passions or fancy of their audience. It was said that his objections were technical; but was his situation, if he was, to be so told whenever he found it necessary to interpose? Advantage had been already taken of his not interposing at previous stages of this proceeding the *argumentum ad hominem* had been more than once addressed to him, and his silence interpreted into concession. Why was he to be required by his Learned Friends to deviate from the usual course, or discard rules of evidence wisely framed for the discovery of truth? One of those fundamental rules was, that no verbal testimony, no parole evidence as to the contents of a written instrument, should ever be received, till it was shown that the instrument, once in possession, was at length lost or destroyed. It was doubtful, he conceived, whether, under any circumstances, evidence with regard to the document now in question could be admitted; but it never was yet heard of, in a court of justice, that upon a mere suggestion that a post-office order was left abroad, it was right to hear a witness go into a narrative of its contents. In a case of no unfrequent occurrence, that of the loss of a bank-book, an examined copy was always required. The other side was bound to show that due pains and diligence had been used for the purpose of obtaining or recovering possession of the document. If their Lordships would refer to the question of materiality, they would find it difficult to discover of what importance it was to this case to show how a particular passport, or order for post-horses, had been drawn up by the Pope's Secretary of State. It was his duty to watch the course pursued by his Learned Friends on the other side: their Lordships could not judge at once whether evidence thus tendered might not be material; and the only security was in adhering to the known and established rules of evidence. Whatever might be the remarks or animadversions to which he subjected himself, he was resolved to pursue a straight forward course; and he trusted their Lordships would excuse him if he did occasionally interpose, and remark the deviations that were attempted from those rules of evidence to which he had alluded. The evi-

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dence which his Learned Friends now tendered could not be received if those rules were adhered to. The evidence against the Queen had been limited in respect of time, and all the circumstances referred to in that evidence had occurred long before the period when the document in question first came into existence.

The LORD-CHANCELLOR observed, that the question just argued between the Counsel at the bar was one of very great importance in itself, and also as it respected the merits of the present case. It was impossible, with justice to the case, to apply a rule to one part of the evidence, and not to enforce the application of it to every other part. If it was thought right to depart generally from the practice of the Courts below, the departure ought to be complete. The first question was that of admissibility; and, according to every legal principle of evidence, the proof of the loss or destruction of a document was to be made out before any parole testimony relative to it could be admitted. There were innumerable cases in which documents had been lost, the contents of which were most material to a clear understanding of the whole merits; but every court proceeding upon the known rules of evidence required it to be shown that application had been made, and all diligence used, for their production, and in vain. He should, therefore, propose that a question be referred to the judges upon this subject; and that it should be framed in something like the following mode:—"Whether parole evidence, as to the contents of a passport stated to have been left abroad, could be admitted without some previous general testimony that application had been made: or, if not, that it could not have been made with any prospect of success?" If the Learned Judges should decide in the negative, the second question of relevancy or non-relevancy would be disposed of. He would only now add, that it was now impossible, in this stage of the proceeding, to conduct it so as to attain the ends of justice, unless they protected the witnesses up to its conclusion. He was sure no Noble Lord would have applied the epithets of corrupt or perjured to any witnesses in the midst of a pending process.

The EARL of LAUDERDALE said, it seemed to him to be assumed that an order for post-horses was a passport, or else that it could be evidence, in the absence of a passport, both of which propositions he was disposed to deny. A passport was given in the first instance, and, from it, an order for post-horses was made out; but if their Lordships wished to know what was the tenour of the passport, he did not believe that object could be attained by a mere reference to the post-horse order. With respect to the possibility of the passport having been destroyed, that was a preliminary point, which their Lordships ought to decide. If it were in ex-

istence, it would be the proper evidence as to the designation that had been given to her Majesty.

The LORD-CHANCELLOR observed, that in the question which he had recited he had mentioned the post-horse order, with reference to its being the next best evidence, in case the passport could not be produced. The whole matter would be for the consideration of the Learned Judges.

The MARQUIS of LANSDOWN said, it appeared to him that it would be more difficult to get any information, as to the post-horse order, than it would be to procure information relative to the passport, and for this reason: because the passport remained in the hands of the person who got it, and that person might be asked whether he had the document in his possession, or whether he had destroyed it? But it was not so with the order for post-horses, which was left with the post-master, as his justification for granting those horses. The individual who presented the order had afterwards nothing to do with it. He begged leave to state, contrary to the opinion of the Counsel at the bar, that a post-house was not like a Court of Record, where every paper was preserved. No reason existed for preserving papers there, as they were preserved in other offices. The post-master's only motive, in preserving the order for a short time, was, lest, in the course of 24 or 48 hours, he might be called on by his government to show why he had afforded facilities to any particular parties who might have passed through the country. If, as had been stated, all those orders were preserved, the whole library of the Vatican would not contain them in a very short time, so great a number of foreigners were continually passing through Italy. The case therefore resolved itself into this—whether it was absolutely necessary that the evidence should be given in the shape of a document? If it existed, it could not be suspected that such a document would not be readily produced: if it did not exist, he could see no reason for refusing parole evidence of its contents.

The EARL of LAUDERDALE said, the practice throughout Europe was, to send the passport to the post-house, for the purpose of having the order made out from it. He must contend, that, before it was established that such a document was tantamount to a passport, evidence that no passport had existed should be given: for this, he believed, was the only case where an order for post-horses was granted without a passport being previously exhibited. The thing, he thought, was impossible; and he conceived they ought to have a preliminary examination, in order to ascertain that fact.

The MARQUIS of LANSDOWN observed, that the view in which he understood the Learned Counsel to ask their Lordships for liberty to give evidence of the passport,



was in order to show the style and character in which the party travelled—a fact set forth in that document, which had been signed by the Cardinal Secretary of State. As to the question, whether all persons, wanting post-horses, must exhibit a passport, the Noble Earl would find that the practice varied in different states, and even in the same state, at different times.

LORD ELLENBOROUGH, as we understood, was of opinion, either that the original document should be produced, or that evidence should be given, in the first instance, of its destruction.

LORD ERSKINE said, as he understood the subject, it appeared that the evidence which was sought to be given went to this point—namely, whether Cardinal Consalvi, in a certain paper signed by him, treated the Queen of England with due respect? Whether he did or did not deny to her that honour which she had a right to claim? Now it appeared to him quite impossible that this could be shown by the production of an order for post-horses. Where was it to be had? In the courts here, an original copy, an office copy, or an examined copy of a document, might, according to the case, be procured. But what would one think if a postmaster were asked for an office copy or an examined copy of this order? The question was, whether this was not a point that might be filled up by some examination? If, by any diligence of that kind, the difficulty could be removed, he conceived their Lordships ought to allow it.

The LORD CHANCELLOR conceived that the suggestion of his Learned Friend, if agreed to, might create considerable inconvenience.

The EARL of LIVERPOOL, wished to say one word, without any desire to provoke discussion. He alluded to the second part of the objection, which was connected with the relevancy of the matter meant to be proved in evidence to the case now before them. He would ask, how that matter could, in any point of view, bear on the present case, unless they could connect the circumstances referred to with the government of this country? Now, the conduct of the Pope or Cardinal of the Court of Rome, as to the treatment they had given her Majesty, if that treatment were not connected with this government, could be considered as affecting this question, he could not perceive. He really thought the conduct of those individuals had nothing to do with the subject under consideration. He stated this, not as an objection on his part—for he was anxious to raise as few of those objections as possible—but he merely threw it out as a suggestion for the consideration of others.

The MARQUIS of LANSDOWN differed in opinion from the Noble Earl who had just sat down. He thought it would be most material to the Queen's case, that the point in

question should be proved. The Noble Earl stated, that it could be of no consequence if the conspiracy of which it was said to form one indication, was not brought home to this country. But this was not a correct view of the circumstance. There might be a conspiracy formed in another country against her Majesty the Queen, and its result might be the preferring of these very charges; although, at the same time, this government might not be at all privy to the existence of such conspiracy. He maintained that it would be material for her Majesty to prove a circumstance of this nature.—Would their Lordships refuse to hear evidence of such a conspiracy, because counsel at the bar stated that he could not bring it home to this government? Would they reject evidence when counsel stated that he had the means of proving a conspiracy against the Queen in another country, which at a subsequent period was adopted by this government, because he could not bring its origin and growth home to them? What he understood the counsel at the bar to say was, that he could connect this conduct of Cardinal Consalvi towards the Queen with an application made to him by the Hanoverian minister, and that he believed this application formed part of a conspiracy, or something like a conspiracy, to degrade her Majesty's character. It was right, therefore, he thought, to go into proof of the fact.

The LORD CHANCELLOR said he would not press their Lordships to refer the question to the Learned Judges. (*hear, hear.*) He remained of the same opinion that he had originally advanced; and as he was extremely desirous to stand right with their Lordships, he would restate what that opinion was. His idea was, that if an order for post-horses be written, its contents could not be proved by parole evidence, unless testimony was given that it had been destroyed, or that it had been refused, after proper application was made for its production.

Here the conversation terminated.

#### *Examination resumed.*

When you saw the Queen at Rome on the last occasion to which you have alluded, did you see Bergami? Yes, several times.

Did you see Bergami as well in the presence of the Queen as when she was not there? Yes, several times.

Now, I first ask you, Sir William Geth, whether or not, in the demeanour of the Queen towards Bergami, or in the demeanour of Bergami towards the Queen, you saw any thing indecorous or improper? Not in the least.

In what manner did Bergami conduct himself towards the Queen on the occasions when you saw them together? Always with respect. He did every thing that he ought to do. He did nothing that appeared to me extraordinary or particular.

Was the Countess of Oldi in attendance on the Queen at Rome when you were there? No, not at that time.

Did you see her whilst you were at Milan? I think not.

What length of time was the Countess of Oldi in attendance on the Queen whilst you were with her? At the Villa Brandi, alone, for three months.

Had you an opportunity of judging of the conduct, demeanour, and manners of the Countess of Oldi? I had a very good opportunity. I sat next to her every day at dinner.

I now ask you whether or not the Countess is a person of low and vulgar manners? Certainly not.

What are the appearance and demeanour of the Countess? Very pleasing; she is rather good looking, and is a very modest lady.

Upon any occasion, when Bargami has come to see you, or you have been obliged to see him, and the Queen was not present, what were his conduct and demeanour towards you, as to manner? On all such occasions he was more respectful than was necessary. He generally required to be pressed before he sat down.

You have been for a considerable time in Italy? I have been there almost ever since the Queen first went abroad.

I want to know whether, according to the habits of the country, it is unusual for men servants to go into the bedrooms while the ladies are in bed? I believe it is not at all uncommon. I believe it is very usual.

Did you know Baron Ompteda? Yes, I did.

Have you known, yourself, of your own knowledge, of his dining with the Queen, while her Majesty was Princess of Wales? Yes, certainly; I saw him at the Queen's table, at dinner.

Once, or more than once? I cannot remember more than once, at this moment; I mean at the Queen's table; I have met him at other tables.

You have been in the East, Sir William? Yes.

Pray have you been ever in the habit of seeing a Moorish dance? Yes, not only in the Eastern countries, but in Spain.

Mr. Park objected to any question relative to the mode of dancing adopted in foreign countries.

The LORD CHANCELLOR.—I see no objection to a question which tends to show that a particular dance exists. The fact must afterwards be contrasted with that which has been previously given in evidence.

Mr. Williams resumed.—Will you describe this dance generally, if you can do so?—*(Much laughter.)*

The LORD CHANCELLOR.—Recollect, Mr. Williams, that Sir William Gell has got the gout.—*(Laughter.)*

Give me any description, verbally, of the manner in which this dance is usually performed? I believe every one has seen the Spanish Bolero danced at our theatres; it is very like that. In one part of the dance the two performers come together, sometimes in an attitude of defiance, and sometimes in an amorous attitude. The same dance prevails throughout the south of Europe. Every body, ladies and gentlemen, saw it without making any particular remark. I believe it prevails from Madrid to China. It is common in every part of Italy.

During the time that you were at Naples, in attendance on the Princess, were there many families in the habit of visiting her? A great many. Every body that was there, I believe. All persons of note.

Did the Neapolitan nobility visit her? All the Neapolitan nobility, and all the English, I think, that were there.

Can you tell whether the English nobility, of whom you are speaking, were present, or attended at the Court of the then King of Naples, Joachim? I believe every one, without exception.

Can you name any of those who were in the habit of attending either the Court or balls of Murat? The Marquis of Sligo, the Marquis and Marchioness of Conyngham, the Earl and Countess of Oxford, Lord Lynedoch, Lord and Lady Holland, the Earl and Countess of Landaff, Lady Elisabeth Forbes, and many others.

And many others? Yes, many others that I do not recollect.

Was it there or at Genoa that Lord Exmouth dined with the Queen? I do not know any thing of Lord Exmouth.

When you were at Rome on the last occasion, do you know whether Bargami was received in the families of Roman nobility? I do not know at all, but I do not believe that he went out.

#### Cross-Examined by MR. PARK.

How long were you at Rome the last time? A few days only.

How long were you in attendance upon her Royal Highness after her return from her long voyage? The whole time she was there, but I should think a very few days.

Then I understand that after the expiration of those few days you quitted and went to Naples? I asked leave of the Queen and went to Naples.

I understand that you accompanied her Royal Highness when she first went to Naples; were you with her when she arrived at Naples? I was.

At what time of the day was it? In the evening.

Was it late in the evening? I think daylight, about sunset.

You said that there was a garden behind the house where some workmen were employed? There was.

Did you ever see the Princess walking in that garden? Yes.

Did you ever see Bergami walking in the garden? Yes, one morning.

Was the Princess there at the time? Yes.

Were they walking on the terrace? They were.

How near was Bergami to the Princess? About as near as I may be to you.

Was he walking at the same time? Yes.

How long did you see them walking in that way? Perhaps half a minute.

Where were you at the time? In another wing of the house.

Did you see any body else in the garden at the time? Nobody but a man who was sailing certain tines that had fallen across the path.

You were at a masquerade with the Princess at the house of the King? I was.

Were you there the whole time? The whole time, and was much fatigued with it.

Did you see Bergami there; I believe I saw him there with the rest of the servants.

Where were the servants; what were they doing? Generally waiting on the company: handing ices, sweetmeats, and other things of that sort.

Then you did not see him there at any other time, but with the rest of the servants? I do not recollect any other time.

Did you see her Royal Highness when she was in the Turkish dress? I think I did, but I have not a distinct remembrance of it.

When you saw her in the Turkish dress, did you see any other person dressed as a Turk? I believe there were a great many others.

Was she by herself at that time, or forming a part of a group of Turks? It is impossible to say at a masquerade.

Did you attend her Royal Highness up stairs when she changed her dress? I was once with her upstairs in the course of the evening.

Did you accompany her down afterwards? I might have come down the stairs with her, but I did not hand her.

Do you recollect in what character she was at that time? I really do not.

*Examined by the PEER.*

By LORD ERSKINE.—You said that you never saw any impropriety whatever in the conduct of the Princess or of Bergami towards each other? Never, on any occasion.

You are a man of the world, Sir W. Gell, and have lived a great deal in it: I wish to ask this question.—Supposing it had been proved that there was a criminal intercourse between her Royal Highness and Bergami, and that Bergami had acquired a complete dominion over the mind and body of this illustrious Princess, do you think it probable that you could have observed nothing of the kind?

The Solicitor-General, with the greatest possible deference, objected to the question.

LORD ERSKINE.—The question I think might be put in any court of justice; but if the Learned Counsel wish it not to be put, I will not put it.

The Solicitor-General.—I have no wish but to do my duty, and with all deference and submission I object that the question was not legal.

LORD ERSKINE.—I think it very material that the Learned Counsel should have made the objection, and I will allow him all the benefit of it.

By LORD ELLENBOROUGH.—Did you observe any thing in the conduct of the Princess towards Bergami in her conversation, manners, or looks, to induce you to entertain the idea that there was an adulterous intercourse between them? Upon my honour, I never saw the Queen speak to Bergami but on matters of business, though I was in the house three months together.

I wish for a more distinct answer? (The question was read over to the witness.) I never did.

Was there any thing in the manners of Bergami which made it disagreeable to you as a gentleman to share with him the duties of Chamberlain? On the contrary, he was remarkably attentive to me. He would have handed me down stairs with a candle if I would have let him; but I was obliged to explain to him that being lame it hindered me, and I would rather he let it alone.

Do you consider the conduct of Bergami the conduct of a gentleman?—Perfectly so, to me.

Did Bergami, while you were with her Royal Highness, take more than his share of the duties of Chamberlain? Certainly not.

Did you observe any thing in the conduct of Bergami towards the Princess that would have differed from that of an English gentleman? Nothing, but that he was more attentive. (Some laughter.)

By the EARL of DARNLEY.—Can you state in point of fact whether the orders for post-horses are preserved or not? I do not know: they are given before we leave the city, and are equivalent to a passport. It is delivered to the post-master, who would not give them up without it.

But you do not know that an order for post-horses would not in any case be of use coming? From what I know of the Roman government, I know that it would not be forthcoming.

The EARL of DARNLEY submitted that sufficient ground had now been laid for requiring the contents of the post-horse order.

By the EARL of LIVERPOOL.—Are you aware, or were you aware, of the fact that Bergami was or was not a married man? I believe he is a married man, but I do not know it.

Do you mean to say that that is your present belief, or that it was your belief when Bergami was originally placed in the service

of the Princess? I believe somebody told me so, but I do not know whether it was correct or not.

Have you ever seen a child named Victoria: do you not know that she was the daughter of Bergami? She was called the daughter of Bergami, but whether she was so or not, I do not know. (*Laughter.*)

After the opera, at Naples, on the second night after her arrival, do you know whether the Princess retired to her own chamber, or where she went? She retired to her own chamber: I was waiting at the door, I made my bow and went out, and I believe her Royal Highness went to bed immediately.

By EARL BATHURST.—You have seen, you say, the Princess and Bergami walking on the terrace when workmen were also there, was that soon after her arrival at Naples? I am not clear as to the time, but I should think not.

By the EARL of ENNISKILLEN.—What was the hour of the night at which the Queen returned from the opera? About one o'clock.

You describe that the Queen was dressed on one occasion in a robe resembling a Grecian female: I wish to know whether that robe could be put over any other dress she had on that night without undressing? Not only must it be so, but I recollect the dress her Majesty had underneath: it was perfectly plain, it came up to the neck, was very short, and had no train.

By the EARL of LAUDERDALE.—Did you attend the Princess at Villa Grande, and Ruccanelli? I was a few days at Ruccanelli, and afterwards came to Villa Grande, where I resided two months.

In what year? 1817.

In what month? July and August.

Do you remember whether Louis Bergami was there? He certainly was some part of the time.

Do you remember whether any other persons of the Bergami family were at Ruccanelli or Villa Grande? The Countess Oldi, who I understood was sister to Bergami.

Do you remember any other? I really do not at this moment.

Was there another sister, named Faustina? Not that I ever heard of.

You never saw her? I never saw her, knowing her either to be Faustina or sister to Bergami.

Did Louis Bergami dine at Villa Grande? Sometimes.

At table with the Princess? At the same table.

Did you ever see Bergami's mother?—Never to my knowledge.

Then you do not recollect to have seen in the Princess's service any other relations of his family but Louis and Countess Oldi? I recollect no others.

Was the short dress one which the Princess wore when she personated any other

character but the Grecian female? I was in the passage close to the door, and saw the Princess in that dress.

You are certain that the first dress her Royal Highness wore was over that short dress? Beyond a doubt, it could be no other.

I am speaking of the dress you describe as coming up high without a train: do you know whether she wore that dress in the first character she assumed? It must have been so; it was the first dress she wore: it was impossible that she could have taken it off in so short a time.

Where did Bergami sit at table, when you were there also? Generally speaking somewhere on the left of her Royal Highness.

Did he sit next her Royal Highness, or at a distance? Sometimes next, and sometimes at a distance.

When you were at the same table? When I was at the same table.

Did you sit on the opposite side of the Queen? I generally sat when there was no company, on the right side of the Queen.

And Bergami on the left? Sometimes, but when the table was square, round the corner.

But when visitors were present, did Bergami continue to occupy that place? That was just as it happened, according to rank.

By another Peer.—You said that Louis Bergami dined at the table when you were present; I beg to know how often that circumstance occurred? It occurred several times; sometimes he was absent from home.

I also beg to know what situation Louis Bergami held in the establishment of the Princess at that time? I believe he was chamberlain at that moment.

Where might Louis Bergami usually sit when he thus formed one part of the company? Generally at the other end of the table.

By the LORD CHANCELLOR, at the instance of the Solicitor-General.—When the Princess appeared in the Turkish dress, did she not wear trowsers? I happen to know what the trowsers were, and I beg to explain them.—(*Explain, explain.*) They are very much like the common petticoat, sewed slightly between the legs at the bottom; such as they are very often worn in the Levant.

At the instance of Mr. Williams.—When you saw the Princess and Bergami walking on the terrace, could they not be seen by persons in the surrounding houses as well as in the house to which it belonged? Yes, from every house in the neighbourhood.

By LORD BROWNLOW. When the Princess went up stairs to change her dress, had she any attendant to assist her, and who was it?—To say the truth, she had a great number of attendants: the door was opened and shut by every body who went in and out of the room.

Was she attended by De Mont? I do not remember. I dare say she was.

Do you believe that Bergami was there?

Mr. Brougham was unwilling to interpose, but he wished the question to be put, not as a matter of belief, but of actual knowledge.

Do you know whether Bergami was there? I do not.

By LORD FALMOUTH. You said that on one occasion you saw Bergami and the Queen walking together on the terrace. I wish to know whether they were arm in arm.

Mr. Brougham said, that the witness had already stated that they were not walking arm in arm, but one behind each other, as far distant as the witness and Mr. Park.

LORD FALMOUTH would not press the question if it had been already answered.

By the EARL of LAUDERDALE.—Do you recollect Bergami being ill at Ruccanelli? I do not.

You were not at Ruccanelli all the time the Princess was there? I was not.

The witness was then ordered to withdraw, and as it was 4 o'clock, the House as usual adjourned.

## House of Lords,

SATURDAY, OCTOBER 7, 1820.

The LORD-CHANCELLOR having taken his seat at ten o'clock, prayers were read by the Bishop of Limerick, and the House called over.

### M. MARIETTI'S CORRESPONDENCE.

The MARQUIS of LANSDOWN moved that the Interpreters should be called to the Bar, to verify the translation of M. Marietti's Correspondence.

The King's Interpreter the (Marquis de Spinetto) and the King's Interpreter (Mr. Cohen) then appeared at the Bar, and were sworn.

The LORD-CHANCELLOR asked the Interpreters what papers they had got.

The King's Interpreter said he held in his hand translations of certain letters addressed to Giuseppe Marietti.

The LORD-CHANCELLOR.—Are these papers faithful translations, on which you have agreed?

The Interpreter.—They are correct to the best of our knowledge and abilities. We have compared the translations with the originals.

The translations were put in and on the motion of the Marquis of Lansdown, laid on the table.

Counsel were called in.

The EARL of LIVERPOOL thought that, before any new witness was examined, it would be proper to call Lady Charlotte Lindsay, for the purpose of learning whether she

had found the letter she had received from her brother.

Mr. Brougham said that Lady Charlotte Lindsay was not then in attendance, but he expected that she would soon arrive, and might then be called.

WM. CARRINGTON sworn—examined by Dr. LUSHINGTON.

What station in life do you hold? I am Sir Wm. Gell's servant.

How long have you been in that situation? I think about nine years.

In what situation were you before? That was my first situation as a servant.

What were you before? I was in the navy.

In what capacity? I was a midshipman.

The LORD CHANCELLOR desired Mr. Gurney, the short-hand-writer, to read over the questions and answers.

The DUKE OF CLARENCE thought it would save time if the shorthand-writer, instead of rising up, remained seated while he repeated the questions and answers.

Did you attend Sir William Gell during the latter end of 1814, at Naples? I did.

Did you live in the house of her Royal Highness the Princess of Wales? I did.

Do you remember a person named Bergami coming into the Princess's service? I do.

In what capacity did he come? As a courier.

Did his coming into the Princess's service seem to excite any or what symptoms of jealousy in the household? I never observed any.

Was any thing said about it?

The Attorney-General objected to questions which referred to what the witness had heard.

Was there any jealousy at all shown after Bergami came? I never saw any.

Do you remember the first night that the Princess arrived at Naples? Yes.

Do you recollect where Bergami slept that night? I do.

Where was it? In a very small room over the steward's room.

Who was the steward? Monsieur Sicard.

Did Sicard sleep in his room that night? I believe so.

Did Bergami sleep in the same room on the second night? No, he did not.

For what reason did he change? Because the room he slept in on the first night was so low that he could not stand up in it.

Do you remember the room in which he removed? I do.

Do you also remember the Princess's room? Yes.

How near to her Royal Highness's chamber was the room in which Bergami slept on the second night. I think it was about 60 feet from it.

Were there any other rooms between that



in which Bergami slept and the Princess's? Yes, there were three rooms and a passage.

Can you tell who occupied those intermediate rooms? Yes, I can. Mr. William Austin slept in the first, Hieronymus in the second, and Dr. Holland in the third.

If I understand you rightly, there intervened, besides these three rooms, a passage between the Princess's apartment and Bergami's room? Yes, there did.

Did any of the three rooms open into that passage? Yes.

Do you remember being at a masked ball at Naples? I do.

Was it a ball given by the Princess? Yes.

Were you in attendance there? I was.

Do you recollect any of the servants appearing in a particular dress? No, I do not.

Did you wait in the room upon that occasion? I did.

Did you travel in the suite of the Princess on the journey to Naples? I did.

Do you remember William Austin on that journey? I do.

Can you say where William Austin slept before your arrival at Naples? He slept in a room by himself when there was a room to spare; when there was not, he slept in the same room with her Royal Highness.

Do you know a person of the name of Majochi? I do.

Did you ever see Majochi and Baron Ompteda together in the same room? I have.

Did you ever hear him mention Baron Ompteda's name? Yes.

What did you hear him say respecting Baron Ompteda?

The Attorney-General objected to this question, and, the witness having withdrawn from the bar, proceeded to argue against it. The question was, whether the witness had heard Majochi say any thing respecting Baron Ompteda. He objected to any conversation between the witness and Majochi, with respect to a third person, being taken as evidence. Whatever Majochi had said of Baron Ompteda could not be received as proof of any fact concerning that gentleman. Besides, he was not aware that Majochi had stated himself to have had any conversation with the present witness; and unless he had been asked whether he had any conversation with W. Carrington relative to Baron Ompteda, no ground whatever was laid for the course of examination which he had interrupted. But, if even Majochi had been asked such a question, still any conversation between him and the witness relative to the Baron's conduct could prove nothing having any bearing on the case. In order, however, to justify the examination at all, he called upon his Learned Friends to show that Majochi had been asked whether he had had a conversation with Carrington, and had denied his having any.

The Solicitor-General thought it quite clear that the question could not be put. Nothing was more fully admitted than that a witness could not be examined on conversations relative to facts collateral to the inquiry; and if the object was to contradict the testimony of Majochi, it had not been stated what question had been put to Majochi which it was now wished to contradict. He apprehended that his Learned Friends were not entitled to refer to Majochi's evidence in a general way, but that they must point out the particular statement they meant to disprove.

Dr. Lushington trusted that he should be able to satisfy their Lordships that the question ought to be put. If he understood the objection, it was twofold: first, that the proposed examination had reference to facts collateral to the inquiry; and, secondly, that supposing this not the case, that as no question had been put to Majochi as to a conversation with Carrington, no question could be asked the latter with regard to that circumstance. Now, as to the first point, nothing was more easy to show than that the proposed examination, instead of being collateral, had a direct and most important bearing on the inquiry. Was it possible to contend that to ascertain the fact whether Ompteda had not acted as a spy on her Majesty, had suborned her servants, that he had broken locks, forced doors, in order to steal papers, with the view of fabricating charges to affect the character, the honour, and even the life of the Queen—Shall it be said that an examination to prove that fact is not relevant to —

LORD REDESDALE interrupted the Learned Counsel, and moved that Counsel, to withdraw. The Learned Counsel had no right to pursue the course of examination he proposed. He could not impugn the conduct of Baron Ompteda by conversations which had passed between the witness and another person.

The LORD CHANCELLOR observed, that certainly that could not be done.

LORD REDESDALE said the Learned Counsel was raising an argument on the subject of Baron Ompteda's conduct; but he had no right to impugn any individual's character on a conversation between the witness and a third person. If he was prepared to show by evidence that Baron Ompteda's conduct had been such as he described, let him bring it forward. But to take the course he proposed to pursue at present was to exceed those bounds of right and duty within which Counsel ought to confine themselves.

EARL GREY wished to remind their Lordships of the state of the case. The question which the Learned Counsel proposed to put had been objected to on two grounds: first, that it was collateral to the inquiry; and, secondly, that Majochi had not been asked whether he had any conversation with

the witness Carrington. Now, if he understood the particular point to which the Learned Counsel was replying when he was interrupted, it was the first ground of objection. He was going on to show that facts could not be regarded as collateral which related to the conduct of a person in breaking locks, suborning servants, and doing other acts with the view of affecting the character and honour of her Majesty in reference to this inquiry. The argument of the Learned Counsel was not that the conversation in question would be evidence against Ompteda, though it might contradict Majocchi's testimony; but it was an answer to the assertion of the Counsel on the other side, the matter was collateral. It did not appear, therefore, that the Noble and Learned Lord was justified in saying that the Counsel had exceeded the bounds of right and duty.

**LORD REDESDALE** explained. If evidence was to be obtained of what Majocchi had said of Ompteda, it ought to be sought from Majocchi, in the first instance, and not from the person with whom he had conversed.

The **LORD CHANCELLOR** would not enter into the argument, but he confessed that it was the first time in his life that he had witnessed an attempt to prove the conduct of a third person by a conversation which a former witness was alleged to have held with the witness under examination. Had Majocchi been questioned as to what he had said to the present witness, it would have been a different matter. As things stood, it would be necessary to look back to what had been stated by Majocchi on this subject.

The **EARL of LAUDERDALE** referred their Lordships to several pages in the minutes, in which Majocchi had been examined with respect to his intercourse with Baron Ompteda.

**LORD ERSKINE** rose to order, and suggested that the counsel at the bar should refer to the pages of the evidence.

The **EARL of LAUDERDALE** said that his Noble and Learned Friend would not, perhaps think him out of order when he spoke on what account he referred to the evidence. He was of opinion that the question could be put. (A laugh.) He wished to save her Majesty's counsel the trouble of doing that by argument which was already done by evidence. In the pages of the evidence to which his Lordship had referred, it would be seen that Majocchi was examined as to the imputed intrigues of Baron Ompteda, and asked particularly whether there was any talk among the household of the Princess respecting the Baron.

**LORD ERSKINE** said his Noble and Learned Friend was on the side which every impartial man must take; but still he

thought he better to let the counsel go on with the argument.

Counsel were again called in.

**Dr. Lushington** said that, when their Lordships interrupted him in the argument he was pursuing, he was about to add that he never conceived that the declaration of Majocchi could be evidence of what Ompteda had done, but that he meant to show that the conduct of Ompteda was not collateral, but a direct point in issue. He was going on to state circumstances which in a subsequent stage of the proceedings it might be necessary to prove, namely, that locks had been picked, that doors had been forced, and that plots had existed: because that proof would be the means of explaining part of the conduct of her Majesty which had been made a ground of imputation. It would, for instance, account for her taking care that some of her male attendants, in whom she could place confidence, should sleep near her,—for her taking care to have always a person near her on whose fidelity she could depend. He contended that evidence for this purpose was admissible, as Majocchi had thought fit to deny the existence of any plot whatever, and when examined at different times, had also denied all knowledge of any locks having been picked. His evidence was surely open to contradiction on these points. Their Lordships would see, in page 68 of the printed minutes, what answers he had given to questions about this Baron Ompteda. In the first place he said, "I do not remember the name." He was then asked—

"Did you ever during the year after the long voyage see a German Baron dining at her Royal Highness's at the Villa d'Este?—in the House Villani I saw him.

"Then you do know a certain German Baron who used to visit her Royal Highness?—He was a Prussian.

What was his name like, as nearly as you can recollect?—I do not remember the name, because it was an extraordinary or unusual name, but he was called the Baron—Baron—Baron something.

After this evidence, was it not fit that her Majesty's counsel should be permitted to prove that Majocchi knew this Baron's name; that he often spoke of him; that he made his name and his deeds the subject of repeated conversations? He was further asked,

"Was there any thing happened in the Princess's family, any thing that made a noise in the family connected with this Baron, whatever his name was? This I do not remember.

"During the time you were in the service of her Royal Highness at the Villa Villani, or the Villa d'Este, do you recollect any blacksmith or locksmith being examined there with respect to the picking of locks?—This I do not remember.

§ Or about making false keys?—This I do not remember.

"You never heard of any such thing in the family, while you were there?—This I do not remember to have heard; I do not remember it.

"Do you remember no quarrel taking place between Lieutenant Hownam and this German Baron, while you were there?—I have heard that they had quarrelled together, but I do not know the cause of the quarrel." [Then follows a long series of *Non mi ricordes*, in answer to questions about the time when he heard of the quarrel.] If Majochi had denied seeing a person on his journey to Vienna, would it not be competent to prove that he had acknowledged seeing that person? He apprehended that it was perfectly open to him to show the contradiction in that witness's testimony without any contravention of the rules of evidence. The existence of the plot tended to explain and justify the conduct of her Majesty. The witness denied all knowledge of that plot. He contended that the testimony now offered did away with that part of the evidence, and left the case *rectus in curia*. He did not contend that he should establish any facts declared by Majochi. But if he proved that Majochi frequently talked of the plot, that in talking of it he sought to evince his courage as well as his fidelity, by saying of Ompteda, "If the Queen would permit me I would kill him like a dog"—if he proved him to have said this, he did not say that he should prove the facts stated against Ompteda, but he should remove the impression which had been made in consequence of Majochi's perjury. The only objection which he conceived might reasonably be made to their doing so was, that it was a work of supererogation to attempt to detract from credit which no longer existed, for the evidence of Majochi was already completely destroyed.

Mr. Brougham said, that after the able arguments of his Learned Friend, little was left for him to add; but he would merely remind the house of the purport of their defence; they did not contend that any thing said by Majochi regarding Ompteda was evidence in—

The LORD CHANCELLOR here interrupted the Learned Counsel, and said that a great deal of time might be saved if the Counsel had stated the point to which his question tended. He might have asked as to the quarrel between Hownam and Ompteda, to which the witness, in his examination in chief, had declared his knowledge, but the cause of which he did not remember.

Mr. Brougham said, that there was perhaps a more important answer of Majochi than those his Learned Friend had pointed out. He had said he did not know what made him recollect the Baron's coming to Villa Villani. If, therefore, he could show

that he must have known, he apprehended that it was quite open for him to do so. He was perfectly aware that he should have stopped in the question, for, whenever the name of Ompteda was mentioned, *per fas aut nefas*, an objection instantly came from the other side.

The Attorney-General objected to the style of his Learned Friend's argument, if argument it could be called, which consisted principally in assertion. He was not aware that any objection had been taken, whenever Baron Ompteda's name had been introduced, as to the propriety of introducing it. He believed it was a mere assertion of his Learned Friend to say so; but, if such objection had been taken, he doubted not it had been taken properly. He must oppose the manner in which his Learned Friend, Dr. Lushington, had argued the present question, because he had concluded it by stating, that it was a mere work of supererogation to shake Majochi's evidence any further, it being already clear to every body that Majochi was perjured. Such a decision was premature at present, and was one which it became their Lordships only to make upon the conclusion of the case. He had never yet heard that a witness could be asked what another witness had said to him in the course of conversation, unless that witness had been first asked whether he had ever said it to him or not. Now, as to this particular question, he wished to say a few words. The question which had been asked Majochi was this—"Do you remember no quarrel taking place between Lieut. Hownam and this German Baron while you were there?" and his answer was, "I have heard that they had quarrelled together, but I do not know the cause of the quarrel." Now, his Learned Friends, in order to be able to obtain an answer to the question which they had just put to the witness, ought to have asked Majochi, "Have you ever stated to William Carrington that you did know the cause of this quarrel?" because, if they had asked Majochi that question, he might have been enabled to recollect the conversation, if it had taken place, and to explain the circumstances under which it had taken place; but, not having asked Majochi that question, it was taking Majochi unawares to put the question that was now proposed to the present witness. He had heard it said by high legal authority, that the individual with whom a particular conversation had been held must be distinctly named to the witness, before the other party could be allowed to bring forward the individual with whom the conversation had been held to contradict that witness. At page 140 in the minutes it would be seen that the Lord-Chancellor had stated, "that it had been ruled in the Court of King's Bench, that Counsel ought, in the first instance, to name the person referred to, for that a person might merely state that he never had such conversation; but that, if

put in mind of having been with a particular individual at a particular time, he might immediately recollect, and his former answer might be no slur upon that testimony." That rule, he apprehended, was sufficiently plain; and he called on the House to consider in what a situation witnesses, not merely in this case, but in all others, would be placed in the courts below, if that principle were now to be given up. No question had ever been put to Majochi whether he had ever made any declaration about the knowledge of the cause of the quarrel between Lieut. Hownam and Baron Ompteda to any person, much less whether he had ever made such a declaration to W. Carrington; and he (the Attorney-General) therefore apprehended that the objection which he had taken to the present question was perfectly well founded, and that no sufficient answer had been made to it by his Learned Friends on the other side. It was an assumption on the part of his Learned Friend to say that there had been a plot against her Majesty, and that Baron Ompteda had been at the bottom of it. They had made great assertions upon that point, but as yet no proof had been offered to substantiate them. If it were a part of their case to prove the facts which had been alleged against Baron Ompteda (whose memory, it appeared to him, from the knowledge he had of the matter, had been covered with the most unfounded slander and calumny), they certainly might do so; but then they could not do it by offering what had passed in conversation with a third person. No evidence at all had been given relative to Baron Ompteda in the case for the bill; and it was, therefore, highly unfair to let it go forth from their Lordships' bar that the slanders which had been promulgated against him had foundation in fact. The Learned Gentleman then concluded his argument by again repeating that in point of law the question ought not to be put, and by imploring their Lordships not to permit the witness to answer it.

Mr. Brougham denied that he had argued that the facts against Ompteda could be proved by a conversation.

The Attorney-General.—His Learned Friend had taken up the argument in the same way as it had been taken up by Dr. Lushington, and had stated that the manner in which he (Dr. Lushington) had argued it prevented him from saying more.

Mr. Brougham admitted that he had done so; but said he had added nothing to the argument of his Learned Friend.

The LORD-CHANCELLOR viewed the question as being one of considerable importance. It was not to be forgotten that the authority which had been mentioned was met by other authorities on the same subject. The question, as he understood it, was this:—“Whether A. B., a witness, being called for the plaintiff in a case, and being asked if

he knew of the cause of a quarrel between two individuals, and answering that he had heard of a quarrel, but did not know the cause of it; and on cross examination not being asked whether he had made a declaration to C. D. regarding the cause; the question was, whether or not C. D. could be called to contradict him by proving the contrary, the witness not having been asked if he had held such conversation with that person.” It would be extremely desirable that this question should be submitted to the judges, and, after they had advised, the House would be better able to decide the question.

LORD ERSKINE next addressed their Lordships, but in a tone of voice not always audible below the bar. We understood him to say that he agreed with his Noble and Learned Friend in thinking that the whole course of examination which counsel now proposed to pursue must be built upon what Majochi had said in his former examination; but differed from him when he said that the question appeared to him to be such as could not be allowed. He thought that her Majesty's counsel had a right in their questions not merely to refer to what Majochi formerly said, but with such commentaries as they might think the nature of his evidence required. Their Lordships were to look in the minutes to what Majochi had previously stated. Counsel proposed to show, by a conversation which had taken place between Majochi and the witness, that what Majochi had there stated could not be true, and that he (Majochi) must have known at the time he stated it, that it could not be true. In his idea, that line of examination was perfectly allowable. If, however, his Noble and Learned Friend wished to have the point decided by the judges, he had no objection. The House, however, were the real judges of it; and it was for them to decide whether the question, on which so much discussion had arisen, should be put to the witness or not.

Mr. Brougham hoped their Lordships would allow him simply to state what the proposition was.

The Attorney-General objected to Mr. Brougham's being heard any further upon the subject, after having spoken to it so often before.

Mr. Brougham. Past all doubt nothing that Majochi had said to this witness could be received as proof of any thing that Ompteda had done. But Majochi having said, in answer to five or six questions on a particular point, “Non mi ricordo, I do not recollect,” and to two questions, “I do not know,” he, (Mr. Brougham) maintained that he was at liberty to ask of the present witness whether Majochi had not, by a conversation with him, shown that he was speaking falsely when he said so, he (Majochi) having mentioned circumstances to him (the witness) which proved that he must not only remember it in its general bearings, but also



in its more particular details. He contended that he was at full liberty to show, that those details were given in such a way, and were of such a nature, as could not easily be forgotten; and likewise that Majochi could not be ignorant that he told them to the witness, whom he was going to make tell them to their Lordships. The rule of law, he apprehended, allowed that a negative declaration to another person might be proved. It was not denied, that if he had asked Majochi whether he had ever said to Wm. Carrington that he knew of the causes of quarrel between Lieut. Hownam and Baron Ompteda, he should have had a right to put the present question. Why had he that right? Merely to impeach the evidence of that witness. In this case, too, it was likewise evidence, because it was a full contradiction of what Majochi said: it proved that he did know the cause of quarrel, though he said that he did not. His Learned Friends argued, that by a previous decision, in page 140 of the minutes, a general question could not be put; and it was said that one of their Lordships had referred to the practice of the Court of King's Bench, in which you could not examine one witness to what another had said without asking him whether he had ever said such and such things to him in conversation. But though this had been said by some of the Learned Judges, it had never been ruled by them in the King's Bench; but even if had been so ruled, it should be considered that their Lordships had precedents in their own house to go by. They would find one not only in the case of the Duchess of Kingston, but also in the case of Elizabeth Canning—which, by the by, had been tried at the Old Bailey by a very Learned Judge—and there they would find that they had not considered themselves tied down by the rule of the King's Bench. They (her Majesty's counsel) wished the question not to be decided in the general manner in which it had been put by his Lordship: they wished that it should be put in this manner:—whether a witness having sworn that he did not know a circumstance to which he was examined, the counsel was not allowed to prove, by declarations from his own mouth, that he did know it. Suppose that it had been a fact, and not a declaration, to which Majochi had sworn ignorance—suppose he had asked him,—"Do you know whether A. B. had forged certain keys and picked certain locks, at which you yourself was present, and for which A. B. was turned out?" and that he had replied, "I don't know any thing about the picking of the locks, the false keys, or the turning out," should he (Mr. Brougham) not be allowed to show that he (Majochi) had been bodily present, and had seen the person turned out," and that, therefore, he must have known all about it; that he could not have forgotten it; and, in

consequence, when he said he had forgotten it, that he must be speaking an untruth? The mode proposed, was, indeed, a different mode of showing that he had sworn falsely; but it was still stronger as the declaration came out of his mouth. He had only to say, that, even supposing the law of the case to be decided against them, the decision would be a novel one. Would they, then, considering that they had come to this trial in full ignorance of the case, and the witnesses who were to be called against them, prevent them from putting a question, for which, if they had laid a ground in their previous examination, it was admitted, "*ex consensu omnium*" that they would have a right to put? If they did prevent them, it would be peculiarly hard that he should be shut out from the opportunity of establishing a contradiction, because in the cross-examination of the witnesses, he had happened to omit one particular question.

The Attorney-General said, that he should only be trespassing on their Lordships' time if he replied at any length to what had been so fully stated by his Learned Friends on the other side. He had already answered it, and he thought their Lordships would not be better satisfied if he were to repeat it. But, to come to the evidence, the witness had been asked, if, while he was in the house, a quarrel had not taken place between a certain Baron and Lieut. Hownam; to which he answered, that he had heard of a quarrel, but that he did not know the cause. Now they say they can prove that he did know it, and they propose to prove his knowledge by a conversation which he had with this witness some years ago. But he said that they could not, in fairness to the witness, and by the rule of law, be permitted to prove that conversation, because they had not at the time of his examination called such conversation to his mind. He was much surprised that the experience and acuteness of discernment by which his Learned Friend was so particularly distinguished should have allowed him to argue as he had done. A fact and a conversation were totally different things; a conversation he might explain; a fact he could not. The point, here, was a declaration said to have been made by Majochi, and he would contend that such a declaration could not be brought forward to invalidate his testimony, as Majochi had not previously denied the conversation in which such a declaration was said to have been made. Had he been asked whether such a conversation took place, there might have been some ground for the question: now, he apprehended, there was none at all; his Learned Friend had not laid the slightest foundation for it.

LORD ERSKINE put a case—that a witness had made a declaration, of which the Counsel, at the time of the cross-examination,



was not aware, and upon which he therefore could not examine, but that it afterwards came, in the course of the trial, to his knowledge: would it be said, that for that reason, in a Court which was established for the discovery of truth, the truth should not be discovered? Above all, would it be said that such a circumstance should prevent the discovery of truth in a case of such paramount importance as the present? Whatever might be the opinion of the Learned Judges upon this question, he should still feel himself bound to act upon his own judgment. The fact now sought to be established was of too important a nature to be defeated by an objection so purely technical. If their Lordships wished to avoid the embarrassment of a possible dissent from the decision of the Learned Judges, he saw no reason why Majochi might not be called again, and confronted with the other witness. This he had often seen done in the course of his practice: his remembrance might not perhaps now be of much avail, so long it was that he had had the honour of enjoying the rank he at present filled; but unless he was completely superannuated, he would not believe that questions were inadmissible which were calculated to elicit the truth. As a Peer of Parliament, he should certainly give his opinion that this evidence might be received.

The LORD CHANCELLOR thought the question could not be put, and repeated his former argument upon the subject. He did not pretend to say that it was not the practice to call up a witness in the manner in which his Noble Friend (Lord Erskine) had stated that Majochi could be examined. Neither would he pretend to say that Majochi could not be legally brought up, and the questions put to him—"Did you ever say so and so to Carrington? or did you not make such and such declarations?" The best course, in his opinion, was, to ascertain the practice of the courts below: and, in order to do that, he would shape the question to be put to the Judges in the following manner—"Whether, in the Courts below, a witness, examined in a cause, being asked whether he knew of a dispute having taken place, said, he had heard of the quarrel, but he did not know the cause; and not being asked, whether he had ever made a declaration of any such knowledge in conversation; and afterwards in the course of the defence, the Counsel having been made acquainted with witness's declaration of such knowledge—would such proof be received in the courts below?" And, 'secondly, "whether in the Courts below, a witness being asked whether he remembered a dispute, and that he did not remember such dispute, it was consistent with their practice to ask a witness for the defence whether he, who made such a denial did not, in conversation, detail those circumstances, the recollection of which he previously denied on his cross-examination?"

He did not mean to say that he had no opinion of his own upon this question, but he wished to ascertain the opinion of the Learned Judges.

EARL GREY said, that even if the opinions of the Learned Judges should be against them, he should wish, for the sake of justice, that the question should be put. The Noble Lord on the woolsack had suggested a mode of proceeding which would save time, and get rid of the present difficulty, which had arisen from an omission in the examination of Majochi. Majochi might now be called in and asked, "Did you hold any conversation with Carrington about Baron Ompteda?" If this could be done, it would be the most convenient mode of proceeding.

The EARL of LIVERPOOL had no objection to the production of Majochi; but thought that, if the judges were applied to, the House ought to adopt the opinion of the judges. It would be much better to continue in that course of proceeding which they had followed since the commencement of the investigation; for though it had been said that they ought not to decide upon the opinion of the judges, but upon their own (which he admitted to be correct), yet he thought they could not do better than avail themselves of their great legal knowledge in the decision of the present question.

LORD ERSKINE was understood to say that he never meant to assert that, if the opinion of the judges were in the negative on the questions, the House ought to neglect it. He merely meant to express his own dissent from it.

The MARQUIS of LANSDOWN thought the better way would be to ask counsel on both sides whether they had any objection to Majochi's being called.

The EARL of LAUDERDALE thought that the party could not be called up and asked this question, without its being open to the counsel on the other side to re-examine him. It was very possible that he spoke to Carrington with regard to what he had himself heard; and it was very proper to ascertain that point before he was called up. The contrary course, he thought, would be in contradiction to common sense.

The LORD CHANCELLOR understood the commands of the House to be, that the counsel on both sides should be asked whether they objected to Majochi's being called up, and having the question put to him in a form agreed upon. After a pause of a few seconds,

The Attorney General addressed their Lordships. He felt in a very awkward situation (*laughter*), and he would tell the House why. Their Lordships would recollect that Majochi had been already examined three times in the course of one day. The option was given to his Learned Friends whether they would proceed then or not with any

further re-examination. They had declined doing so, and had preferred the delay which had taken place, in order to open their case. If they suffered the proposed course to be taken in this case, knowing as they did the law upon the subject, it was their Lordships' duty to be prepared for the consequences. If it were done in this case, it might be done with respect to every witness at their Lordships' bar.

The LORD-CHANCELLOR here interrupted the Attorney-General. He did not apprehend that the House wished the Learned Gentleman to argue the case; but were desirous that he should state simply, as he was perfectly authorized to do, whether or no he withheld his consent.

The Attorney-General, after what had passed, did not think himself authorised to give his consent.

The Judges then retired on the consideration of the question.

Mr. Brougham proposed, in the meantime, that another witness should be called in for the purpose of re-examination.

This being agreed to,

**LADY CHARLOTTE LINDSAY** was again placed at the Bar. Re-examined by the LORD CHANCELLOR.

Has your Ladyship searched for that letter?—Yes, my Lord, I have.

Have you been able to find it?—No, I have not.

Do you believe it not to be in existence? I have reason to think it not in existence?

Have you reason to think it can be any where else than in your own possession?—No.

By the EARL of LAUDERDALE.—Can Lady Charlotte Lindsay state the grounds of her brother's request, as stated in that letter?

Mr. Brougham submitted with deference, that this was a letter to the witness; and that they were now going to examine her as to the contents of that letter.

The LORD-CHANCELLOR had already stated his opinion. He understood Lady Charlotte Lindsay to have said that she was requested by her brother, the Earl of Guilford, to leave the service of her Royal Highness; and that that request was contained in letter. Now he conceived, to the extent of asking Lady Charlotte Lindsay what were the terms in which that request was put, there could be no objection. Whether the question was intended to be carried further or not, he did not know.

Mr. Brougham begged his Lordship's pardon, but supposed he had misunderstood the question (which was read over by the short-hand writer in the following words):—"Can your ladyship state the grounds of that request, as stated in your brother's letter?"

The EARL of LAUDERDALE contended that they could not refuse to put this

question. He asked their Lordships whether, if De Mont's letter had not been in existence, it would not have been competent to examine her as to the contents of that letter?

The Witness.—I have no distinct recollection of any thing contained in that letter, except an advice that I should resign my situation, and some pecuniary arrangements that were to take place between us.

Does her ladyship's recollection lead her to think that that advice was given her without any cause assigned?

Mr. Brougham objected to the form of this question, which was then put by the Earl of Lauderdale in the following manner:—

Can her Ladyship say whether her brother gave his advice without assigning any cause for it? I don't recollect, in that letter, his assigning a cause; but I have some indistinct idea that the reports to which I have before alluded must have been mentioned in that letter, though I cannot positively say.

What reports does your Ladyship allude to? Reports that I mentioned in answer to a question put to me yesterday by a Noble Lord—reports of an unpleasant and degrading nature, that have influenced me in resigning my situation.

By LORD ERSKINE.—Are those the reports which your Ladyship said had not been confirmed, but contradicted, by your own observations? Yes.

The witness was then ordered to withdraw.

The LORD-CHANCELLOR—Have you any other witnesses to call?

Mr. Brougham.—I will call John Whitcomb, if you please.

The EARL of LAUDERDALE objected to the examination of another witness proceeding in the absence of the judges, who ought to be present, the better to be enabled to consider any question arising out of the evidence, or the application of evidence, which might be referred to them.

LORD HOLLAND thought that his Noble Friend entirely misunderstood the object of the presence of the Learned Judges. Difficulties were very properly and wisely propounded to them, under particular circumstances; and, with great wisdom, their assistance had been asked. They sat there for this reason—that questions might arise in their Lordships' minds, upon the evidence given at the bar, which they might require the assistance of the judges in order to solve. These were questions of law, and of proceedings in law; and the judges ought, in his humble opinion, to dismiss entirely from their minds what evidence they might have heard at the bar, and strictly apply themselves to the dry question referred to them. Consequently, if, in the examination of a witness, difficulties should arise of this nature, their Lordships were bound to put them to the judges in such a shape as should admit of no doubt or difficulty as to their import.

It was in this way, he apprehended, that those learned and venerable persons were to perform their functions.

The EARL of LAUDERDALE explained. During the period of his attendance in that House, in all cases, the judges had been present, on similar occasions, while the evidence was being given.

LORD HOLLAND thought, after the explanation of the Noble Lord, that the practice which was contended for was still more dangerous than he apprehended before. For his own part, not only did he not think that the evidence stated at their Lordship's bar was to have any bearing upon the minds of the Judges, but he thought that the questions argued at that bar ought never to be referred to them. They were not to give an opinion upon the arguments of counsel, they were to state points of law, and the construction of acts of Parliament; and their assistance was intended for the preservation of their Lordships' own character, and importance, and dignity. The applications and references to be made to them by their Lordships ought to be so framed as to bring out the clear opinion of the judges upon them, but still with as little reference as possible to the proceeding or the evidence before the House; so that in fact it became their Lordships rather to exercise their ingenuity in so framing them, as to hide their connexion with such proceeding or evidence. He really thought that, instead of the Judges sitting, as they now did, upon the woolsack, it would be just as well in effect, and perhaps more consistent with strict legal propriety, if they gave the House the benefit of their aid in an adjoining chamber; so that any matter to be put to them must necessarily be exempt from the influence of any evidence, or of the discussions sustained by Learned Counsel. He thought it would be loss of time not to proceed with the examination of witnesses, when the question was so long under consideration by the Judges.

The EARL of LIVERPOOL would say a few words, because they were now adopting a mode different from that of their former proceedings. With respect to any doubts connected with those proceedings, which might (but which, he trusted, would not) arise, those he should desire to refer to the Learned Judges; and upon points of such importance he should certainly support the propriety of postponing the hearing of further evidence until they were solved. Evidence he thought the Judges were entitled to hear; and he conceived that the hearing of it must enable them to give a more just and comprehensive opinion upon any question arising upon it, and referred to them. Under the present circumstances, however, he had no objection that they should proceed with the evidence unless any doubts of that material character he mentioned should arise.

LORD ERSKINE thought that the propo-

sition of the Noble Earl (Lauderdale) went much too far.

The EARL of LAUDERDALE explained, and then

JOHN WHITCOMB was put to the bar, and sworn,

Examined by Mr. TINDALL.

In what situation of life are you? Valet to the Hon. Keppel Craven.

How long have you been in that situation? Upwards of six years.

Were you in his service at the time the Princess of Wales went to Naples? Yes.

Do you recollect, on the first night of her Royal Highness's arrival at Naples, in what room Bergami slept? No; I am not sure.

Have you ever seen the room in which he slept? Not the first room; I never was in it.

Do you recollect the second room in which he slept? Perfectly well.

Was there a passage communicating with that room at one end, and at the other with the room in which the Princess slept? There was a passage which led from one end of the house to the other, to the end in which Bergami slept, and which was in a room towards the terrace. The Princess slept at the other end of the terrace.

Do you recollect the room in which young Austin slept? He slept next to her Royal Highness.

Do you recollect the room in which Hieronymus slept? He slept next to young Austin.

What situation in the Princess's household did Hieronymus hold at that time? He held the situation of page as I understood.

Do you recollect where Dr. Holland slept? He slept in the next room to Hieronymus.

Did the three rooms which you have last mentioned lie on the side of the passage you have adverted to? Yes, all three.

Was there a door from the room of Hieronymus which opened into the passage? Yes, there was.

Where did the door of Dr. Holland's room open into? Into another passage that came towards the dining room.

Was Dr. Holland's room at the corner of the two passages of which you are speaking? It was.

Did the door of Dr. Holland's room open into the passage that turned into the first-mentioned passage? Yes.

Was the door nearly opposite the door of Bergami's room? Bergami's room did not open from that passage.

Do you remember where Mad. De Mont, the Princess's *femme de chambre*, slept? She slept in another room, over Dr. Holland's, the stairs of which led from the passage.

Have you ever been in that room? Yes, frequently.

Have you ever been in that room by night, as well as by day? Late as well as early.

At the time you have been in that room, has Mad. De Mont been there also? Yes, she invited me generally to go there.

When you have been in that room, has there been any person there besides yourself and De Mont? There was, sometimes, Cressi, (Annette we used to call her); but it was seldom long that she stayed when I was there.

Have you, then, been alone in that room with De Mont? Very frequently.

At the time you have been so alone with her, has the door been locked or not? Locked and bolted.

The Solicitor-General objected to the last part of the examination. It was impossible not to see the object for which the Learned Gentleman had put the last question; and that, he apprehended, was an object which could not be legally pursued by him. He supposed that it was unnecessary for him to argue the point.

Mr. Tindal.—We will not, then, push this matter any farther, my Lords.

The LORD-CHANCELLOR.—Really you have pushed it already as far as you possibly could.

Mr. Denman said, if it were only the last question that was objected to, he had no reluctance to withdraw it.

The Solicitor-General observed, that the rest of the answers might stand, as they were immaterial.

Counsel resumed.—Do you recollect the masked ball at Naples? Perfectly well.

Were you in attendance on that occasion yourself? I was not ordered to attend at that ball; but I was in attendance on the occasion, and in the house, for my own amusement. I walked about where I wished.

Do you recollect whether the servants of her Royal Highness were, in the early part of the evening, dressed in character? Yes, they were; but not all of them.

In what characters were those dressed who were so dressed in character? Sicard, Bergami, and Hieronymus, wore something after the Turkish costume.

Was that in the early part of the evening? In the early part.

Did they afterwards change those dresses for plain ones? Sicard and Hieronymus went home, I believe; I did not see them after.

Did you see Bergami afterwards? I did, and to the best of my recollection he was in plain clothes.

What was he doing? Walking about with me; I met him frequently in the apartments, walking.

Were there any refreshments handed about? All the evening; during the night.

Did you, or did you not, see him among the other servants assisting? I think I saw

him once or twice handing refreshments, lemonade, or something of that sort.

Were you at Naples during the whole time the Princess was there? The whole time.

In what manner, according to your observations, did Bergami conduct himself towards the Princess?—The same as the rest of the servants; the same as all of us.

Mr. Tindal.—My Lords, I have no other question to ask this witness.

*Cross-examined by the SOLICITOR-GENERAL.*

Did you live long in the Princess's house after your arrival in Naples?—I lived there a very few days.

How many days?—I should think three or four; I cannot exactly say how many.

After that, you say you lived in lodgings with Mr. Keppel Craven?—Yes.

Now you have described a passage which extended along the house from the direction of the Princess's apartment to the room of Bergami: was it so?—Yes.

In that passage there were three rooms intervening between Bergami's and the Princess's?—Yes.

State again by whom occupied?—Wm. Austin, Hieronymus, and Dr. Holland.

Was Dr. Holland's in the corner?—Yes.

Was there not a passage leading from the dining-room by Dr. Holland's room, into the passage you have first mentioned?—Yes, there was.

In going along that passage do you leave Dr. Holland's room on the right?—Yes, on the right.

Was not there a door leading from Dr. Holland's room into that passage?—To the best of my recollection there was.

And no door leading from it into the other passage?—I am not certain whether there was or not.

In going along the passage had you not Dr. Holland's room in the corner on your right?—Yes.

Was there not a small room on your left?—Yes, there was.

Was it not an unoccupied room?—I believe so.

Beyond that unoccupied room, and next to it, was not the room of Bergami?—Yes.

So that Bergami's room was at the end of the passage you first described, and at the left of the small passage you now describe?—Yes.

Was there not a door from Bergami's room to the passage you have first described?—I am not certain if there was a door.

Speak positively: was there not a door or passage?—I think there was a door or passage; but whether there was a partition between that door or passage and Bergami's, I do not know.

Was there any mode of going to Bergami's room by that passage?—Yes, there was.

By a door?—Yes, I think so.

You have described Bergami's room as



being a small one, looking towards the garden. Was it a corner room near a knell-chamber? It was a corner room; I cannot say whether there was a cabinet.

Was there not a small cabinet immediately beyond it?—I cannot say.

Was there not, in the passage you first described, a small staircase occupied by De Mont?—Yes.

Opposite that staircase, or near it, was there not another door?—I am not sure; I cannot charge my memory with it.

Was it not parallel to the second passage you described between the Princess's room and Bergami's? There was, I know, a sort of inward room or passage, or something of that description.

Was there not a door at the foot of the staircase from the passage you have just mentioned, leading to this passage or inward room, or whatever else it was?—To the best of my recollection there was.

Counsel at both sides now said they were done with this witness.

LORD ERSKINE said he had something to say to him, but for the present he must withdraw from the bar. The witness having withdrawn, the Noble and Learned Lord said that, before he proceeded to put some questions to the last witness, he begged particularly to call their Lordships' attention to the matter out of which the questions he meant to put, arose. For this purpose he should beg leave to read to them an extract from the evidence of Madame De Mont, which was as follows:—

Where did you sleep in Naples?—In a small room over the passage where the other servants slept.

Did you sleep alone?—Yes, I did, alone.

Every night alone?—Every night alone.

And the whole of every night?—Yes, the whole of every night.

And alone the whole night?—Alone the whole night.

Every part of a night, and the whole of every night, do you mean?—Yes.

All alone the whole night?—All alone.

She afterwards said she did not particularly know where any of the men-servants slept.

The Noble and Learned Lord then desired that the witness might be recalled.

The EARL of LIVERPOOL wished the Noble and Learned Lord to state for what particular object—what precise question did he mean to put to the witness?

LORD ERSKINE replied, that he meant to ask him whether he spent any part of any night, or the whole of any night, in the room of Madame De Mont, when she was there and in bed.

The Solicitor General begged leave with all respect to say, that the question could not be put when Madame De Mont was examined, it was impossible not to foresee that the object of his Learned Friends, in putting certain questions to the witness, was either to insinuate or to prove that some persons had slept with De Mont. It was, he thought, a clear and undeniable point in law, that a witness could not be asked if she had committed an immoral act, or, if asked such a question, compelled to give an answer, if she objected to it. It was equally clear and incontrovertible, he thought, as a point of law, that if the witness thought proper to answer the question, and deny the fact attempted to be insinuated, that it would be incompetent for the party to negative her denial by proof. If he were right in that position of law, which he thought incontrovertible, then he submitted to their Lordships that they could not suffer that to be obtained circuitously, or by a side-wind, which could not be attempted openly and plainly. This he affirmed to be the undoubted construction of the law, as administered in the courts below. He stated it with the utmost possible submission to the Noble and Learned Lord (Erskine), for whose experience, knowledge, and talents, he had a profound veneration. It was quite unnecessary to cite authorities for their Lordships, for he felt he was stating a position which could not be shaken. The only consideration then for their Lordships would be, whether they would suffer that to be done circuitously which could not be directly attempted without a violation of the forms of law.

LORD ERSKINE said he remained unconvinced that his question ought not to be put; for he thought not only that the question he was putting to this witness might have been put to Madame de Mont, but also that she might have been legally asked whether he had ever slept with her. He affirmed that that might have been done. It was a course which he had himself often pursued at the King's bar; he had repeatedly asked a witness questions which went to show his criminality. He was perfectly ready to admit that the witness was not bound to answer; but if he answered, what reason was there to take that answer as conclusive, and not to be shaken by other testimony? He remembered that once, before Lord Ellenborough, he had insisted upon asking such a question: it was objected to, and he tendered a bill of exceptions, which bill he was not under the necessity of arguing; it went to all the reason of the judge, and received the assent of the most eminent men at the bar whom he had consulted on the occasion. He had over and over again put such questions. He should state what passed in conversation between himself and Lord Ellenborough at the time. For that Noble Lord's learning and abilities he had ever entertained the greatest deference and respect. Suppose said he (Lord Erskine) to Lord Ellenborough, that you had been taking a walk among the new improvements in the neighbourhood of Bloomsbury-square,



and that some fellow dared to charge you with the commission of a crime, which, if proved, would justly degrade you in the eyes of the world. I know that when the charge was made, the first thing you would do, perhaps, would be to send for me, to undertake your defence. Suppose that we had every reason to believe the fellow who made the charge to be a scoundrel false and wicked enough to make it with the view to extort money. The examination, we will suppose, commenced. I said to the fellow, "Who are you, Sir?—A captain of a ship. Of what ship?—Of a ship that has sailed abroad. Abroad! where?—She is gone to America.—Look nearer to me, Sir; let me see, do I not recollect you? are you not the very man that I unsuccessfully defended once, on the charge of returning from transportation? He may, I know, object to answering this question, and have all the credit of his refusal to answer it; but have I, or have I not a right to put it? The judge may say, No, it can't be put; but, should your client be found guilty of the charge, you can then prove the witness to be the person you represent him, in a motion for a new trial." This, said Lord Erskine in continuation, was the way in which he put the point to the late Lord Ellenborough: and he added at the time, what he felt still, that to deny him the course for which he contended, and point him out in the room of it such a remedy, was a mockery of justice, and most ruinous to the rights and liberties of the subject. Nothing, therefore, was so fatal to the public security, as the first position taken by the Solicitor-General. But, waving that altogether in this case, and referring to the witness De Mont's evidence—she is asked, and she answers over and over again that she slept alone, during the whole and every part of the night in her chamber: she made no objection to answer; no objection was taken elsewhere: he had a right, therefore, to try the validity of the answers she had recorded, and to ascertain whether she had lain with any one else at the time when upon her oath she declared that she had remained alone in her chamber. He concluded by asserting that he had a right to have the witness recalled, and asked if he was in De Mont's room on any night when she was in bed there.

The LORD CHANCELLOR begged to state to the House what he knew of the practice in the courts below. When he first came into Westminster-hall, which was between 40 and 50 years ago, the constant practice of the judges was, when a question of a criminal nature was put to a witness, to inform him that he was not bound to answer the question: that practice was, he understood, of late years discontinued, and the more modern practice, as the rule was laid down in the text-books, was, that a question of the nature he alluded to might be put to a witness, though he was at: compelled to an-

swer, if he did not please. The rule also went farther, for it was laid down, that if the question was asked and answered by a witness, the party asking it could not call evidence to contradict the answer given by the witness. This rule of law certainly put the witness in this singular situation—that, if he refuse to answer, an injurious suspicion is likely to attach to him; but it was clearly and positively laid down in *Phillips's Law of Evidence*, in the case of the King v. Watson, that if a witness has answered such a question, it is inadmissible to call proof either to contradict or discredit that answer. This was now, according to the text-books, the clear and indisputable practice of the courts in Westminster-hall.

LORD ERSKINE said he could not concur in any practice which had the effect of shutting out evidence capable of throwing a light upon the testimony of a witness. Questions might still be shaped so as to sift the matter in controversy without violating the rules of evidence practised in the courts below.

The EARL of LIVERPOOL said, that though he felt little interest in the way in which the point was decided, yet still he could not see how the House could sift this matter to the bottom by getting that answer from the last witness which it was evidently the object to elicit from him. De Mont might be called again; and yet, notwithstanding this contradiction, she might be able to reconcile what the witness stated with the evidence she had herself previously given. She might say she had admitted this person to her chamber, and still persevere in saying she had never slept the whole, or any part, of a night with any body, for that was what her answer literally stated. How was it possible to go farther than this, if both witnesses were re-examined?

LORD ERSKINE said, that his object was merely to show a contradiction of the same fact in the testimony of these witnesses. He meant to go no farther.

LORD REDESDALE said, that if the witness demurred to the question, it was impossible to carry it farther. Whether a man slept with her was certainly a different question from that which she had already answered.

The EARL of LAUDERDALE said, that where a disagreement as to the mode of examining a witness occurred, the decision should always be vested in the wisdom of the judges.

The LORD-CHANCELLOR said, that the construction evidently and plainly put upon the question answered by the witness De Mont fully showed that the object with which it was put was to ascertain out of her own mouth whether she had been guilty of an immoral offence. She denies that fact; and in his opinion, speaking both judicially

and as a peer, witnesses could not be called to contradict that denial. (*Hear*)

The MARQUIS of BUCKINGHAM thought it of very great importance that the rules of law should be preserved unimpaired, and that at the same time all the facts should be elicited from witnesses. He thought that, where a doubt arose upon a question, it ought not to be put until the sense of the house was taken upon it.

The LORD-CHANCELLOR said he was quite sure his Noble and Learned Friend (Lord Erskine) would not put a question until he saw that the sense of the House was with the propriety of putting it.

LORD ERSKINE replied, that he could not know how to anticipate the objections of the House; nor could he well say beforehand what precise questions he might put. It was obvious that his questions must, after the first, depend upon the answers of the witness, of which he could have no foreknowledge.

The witness, JOHN WHITCOMB, was recalled, and examined by LORD ERSKINE.

Where did you sleep in your lodgings at Naples? In a small room next Mr. Keppel Craven's.

Did you sleep in that room every night while in the house? Every night.

Did you sleep there the whole of every night? I generally went to bed at, or after 12 o'clock, and I slept the remainder of the night.

Were you never out of your bed, and elsewhere, after you first went into it? No.

After the three nights which you say you slept at the house of the Princess, on your arrival in Naples; and when you went into lodgings with Mr. Craven, did you ever sleep at the Princess's house? No.

By the EARL of LAUDERDALE. You have been six years in Mr. Keppel Craven's service? Yes, I have.

Where did you enter it? At Brandenburg-house, Hammersmith.

Were you abroad before you entered Mr. Craven's service? Never.

Do you recollect precisely in what year and month you entered his service? Not exactly.

You are sure it was not more than six or seven years ago? Not more.

Did you speak either French or Italian when you entered Mr. Craven's service?—I spoke French a little, but not Italian.

Did you speak French so as to make yourself understood by others? Yes, I did.

Were you at Pesaro when Mr. Keppel Craven was there, about a year ago? Yes, I think it was about 15 months.

Do you recollect Bergami and William Austin coming with any message to Mr. Craven on the day after your arrival? I do, perfectly well, for I was at dinner when they came.

Did you show Bergami into Mr. Craven's apartment? Yes, I showed him in.

Did Bergami speak to you in any way, when you showed him in? I don't know that he did then: he did when coming up stairs, I know.

How did he recognise you? He pressed my hand between his as he passed me running up stairs.

By LORD HOOD.—Were you ever in De Mont's bedroom after you went into lodgings at Naples? Yes.

Were you there often? Yes, very frequently.

Have you seen any body else there, when you were there, except Annette? No, nobody but Annette.

The witness was then ordered to withdraw, which he did accordingly.

Chief-Justice Abbott then rose, and delivered the unanimous opinion of the judges upon the point submitted to them. Whether in the courts below, a witness, during his cross-examination, being asked if he knew of any dispute taking place, had said he had no knowledge of it, not being asked at the same time if he had made, in conversation, any declaration of such knowledge—whether it was consistent with the practice of the courts afterwards and in the course of the defence, in consequence of any thing said by another witness, to call him back, and ask him respecting any conversation he might be alleged to have had on the subject of that dispute? and, secondly, whether a witness having said he did not remember any dispute, it was consistent with the practice of the courts below to ask a witness for the defence whether he, who made such a denial, had not in conversation detailed those particulars, the recollection of which he had previously denied in his cross-examination? To these questions, so put, the judges, according to the practice of their courts, returned a negative. With respect to the propriety of asking a witness a question generally upon a topic, or asking him whether he had mentioned it in conversation to a particular person, it must be within the knowledge and experience of every body, that a hint of the latter kind had often the effect of putting the faculties of the mind in motion, and suggesting at once a recollection of circumstances, the occurrence of which might otherwise have been obliterated from the memory. To allow, therefore, proof in contradiction of what had fell from a witness in answer to a general question, and without at the time interrogating him in the manner best calculated to awaken the recollection, would have an undue and unfair effect upon his testimony, from which the court would be bound to protect the witness in the mode of putting the question. With respect to the second part of the question submitted to the judges, they were of opinion that in grave and serious case, where a counsel might have accidentally omitted to

put an important question at the time when a witness was regularly under examination, it was not admissible for that counsel, in strict point of form, to supply his omission in a future stage of the proceedings. But, nevertheless, it was the practice of the courts for the judge to put himself the question, though the counsel could not, the judges being always of opinion that it was much better to go back in the order of the regulation of judicial forms, than to rigidly adopt a course which might militate against the main and important attainment of the ends of justice. This was the opinion of the judges upon the question submitted to them by their Lordships, and these were the reasons upon which that opinion was founded. It was therefore the unanimous opinion of the judges—and he trusted that their Lordships would excuse them for not having put it into a written form—that it would be better not to put the question.

The EARL of LIVERPOOL observed that every Noble Lord must have carefully attended to the opinion just delivered, and to the language in which it was expressed. It appeared that, by the practice of the courts below, the question might be regarded as objectionable, and their Lordships would remember their own resolution of conforming generally to that practice.

LORD HOLLAND thought the reasons stated by the Learned Judge completely satisfactory.

The LORD-CHANCELLOR said, that in strict form the examination now about to be pursued ought to be conducted by the court. If the Learned Counsel would have the goodness to represent to him the questions he wished to put, he would himself state them to the witness.

**THEODORE MAJOCHI** was then called in, and placed at the bar.—Examined by MR. BROUGHAM.

Do you recollect seeing at any time, at a place called Ruechinelli, near Rome, a servant of Sir Wm. Gell's? *Non mi ricordo.*

Do you recollect meeting Sir Wm. Gell's English servant at any place near Rome? *Non mi ricordo.*

Do you recollect seeing Sir W. Gell's English servant any where? I believe I may have seen him, but not at Ruechinelli.

Did you tell him when you so saw him that Baron Ompteda had shown you certain keys, for which he was desirous of getting false ones made? I never said so.

Did you say any thing to the like effect? I never spoke of this.

Do you recollect any person informing you that the circumstance had been confessed to the police, and that a person had been discharged in consequence? I do not recollect it; I never held any such conversation.

Did you ever say that, if you had your own pleasure, you would kill Baron Ompteda

like a dog? I never said so; this is quite new to me.

Did you ever speak of the villainous and ungrateful conduct of Ompteda, and complain that, after he had long eaten and drank at the Princess's expense, he should act in a manner that brought suspicion on the servants? I never said so.

Did you ever hold any conversation with a servant of Sir Wm. Gell? Never.

Did you never speak to a servant of Sir Wm. Gell concerning the Baron Ompteda? Never.

Mr. Brougham submitted to their Lordships that these negative declarations would hardly suffice for the ends of justice; any witness might find an easy shelter in answers of this kind.

The LORD-CHANCELLOR said, the Court would judge of the propriety of the examination as questionable points arose.

The EARL of LIVERPOOL expressed a hope that their Lordships would not allow more deviations from the usual rules of evidence than might be found absolutely necessary.

LORD ERSKINE said a few words, which were inaudible below the bar.

The LORD-CHANCELLOR was of opinion that they could not adopt a more useful rule than that of adhering as much as possible to the line traced by the examination in chief.

The EARL of LAUDERDALE observed, that the examination ought unquestionably to be confined to the points originally adverted to in the examination in chief. It there appeared that the witness did not know Baron Ompteda by name; and the Learned Counsel ought therefore to speak of a German Baron, and not positively of any individual.

Mr. Brougham—I will then talk of the German Baron with an extravagant name.

Do you recollect seeing at any time a German Baron with an extravagant name at Milan? Never.

Do you remember any former conversations about a German Baron with false keys, and an extravagant name?—

The Interpreter complained to the House of the difficulty of rendering this question with full effect to a witness of the present description; the question was, however, put.

I never spoke about any matter of that kind.

Mr. Brougham.—Then, my Lords, I have done with this man for the present, and I call William Carrington.

**WILLIAM CARRINGTON** was called in, and examined by DR. LUSHINGTON.

Do you know Majochi? Yes.

Have you served in the capacity of servant to Sir Wm. Gell? Yes, I have been his servant.

Did you know Majochi, or meet him at a place called Rucchinelli, not far distant from Rome, at any time? I recollect extremely well that I met him there.

Did he there speak to you concerning Baron Ompteda? I had conversation with him on one occasion, if not on more occasions than one, as regarded her Royal Highness, and also about Baron Ompteda.

What did he there say to you upon those subjects? I recollect his saying that the Baron had employed one of the servants to procure false keys.

Did he show you the keys that were to be imitated, according to his own account? Yes, he did, at Como.

Did he ever state to you that he knew a person to have been so employed, and that, if he had his own pleasure, he would kill that person "like a dog"? I recollect his saying so.

Did he ever say, in your hearing, that Baron Ompteda was an ungrateful fellow, and that he brought suspicion on the servants? I can recollect his saying something to that effect.

Did he frequently talk to you about the Baron? Yes, frequently.

At various places? at Antwerp, for instance? Certainly.

Do you recollect the circumstance of the Queen paying a visit to Sir Wm. Gell at any time? I do; she once visited him whilst he was ill.

In what situation was he then? He was lying on a bed spread upon the floor.

*Cross-examined by the ATTORNEY-GENERAL.*

Where was it that you held the conversation with Majochi about Baron Ompteda in the first instance? At Rucchinelli.

Was any other person present, or was it carried on between yourselves? I scarcely remember.

How did you happen to be at that place? I believe it was accidentally.

Was it before you had been at Rome, or after? It might be about an hour, or an hour and a half, after I had left Rome.

In what year? I believe it was in July, 1817.

How long was this before they set out for Rome? An hour; 12 o'clock.

In what month? It was in the month of July, 1817.

How long were you at Rucchinelli? Part of two days and one night.

Did you go to Rome that day? Yes, I did.

How long did Sir W. Gell remain at Rome? He remained two months.

How long did you stop? As long as Sir W. Gell.

Did Majochi go to Rome that day? He did.

With the Princess? With the family.

He was preparing the carriage, you say, when this conversation took place? He was.

Who else was about the yard at the time? The stable-keeper of the Princess's stables.

Do you remember the names of any of them? No, I was not acquainted with the stable-keepers.

You did not know the name of any of the persons present? I knew Mr. Luigi Bergami.

Was he in the court? He was in a lower, room near the carriage.

What led to this conversation? Majochi was talking of the disrespect that Baron Ompteda had shown to the Princess, and saying that he should like to have satisfaction for it.

This was in the month of July 1817?—Yes.

Did you begin the conversation, or did he commence it with you?—He commenced it with me.

And in the manner you have now stated? Yes he did.

He began by stating that Ompteda had behaved ungratefully? Yes.

And that he had employed the postilion and chambermaid to steal the keys of the Queen? Yes.

Was that the precise way in which he commenced? The first words were, "Have you heard of the affairs of Ompteda?"

Those affairs that had been talked of in the house? Yes.

He asked you whether you had heard of those affairs? Yes.

What did you say? I said I heard something of them by which means he began, and told me the whole over again.

Then he had told you of them before that? He talked about them in the servants' hall, with other servants.

What other servants were there? I think there were at the livery-servants' table eight or ten, together with other people belonging to the house.

Name some of them? I don't recollect their names.

Don't you recollect the name of any one of them? I believe they went by their Christian names. I recollect one by name, Francisco, a Genoese.

What was he? I do not know.

Do you recollect the name of any other person who was present? No; they were all strangers to me. I had seen Francisco before.

This conversation was held in your presence in the servants' hall. Yes.

But still Majochi said, when you came out of the hall into the yard, "Have you heard of the affairs of Ompteda?" Yes.

How long were you at that place? Part of two days and one night.

Had you been with Sir W. Gell at the Princess's before that? Yes.

At Naples? No; I saw her at Rome.

How long before: about a twelvemonths? Yes.

Then this was the second time the Princess was at Rome? It was the second time Sir W. Gell saw her at Rome.

Was it in the month of July, 1817?—I am not certain of the year; I think it was in 1817.

Not certain of the year? Do be good enough to recollect the year.—I believe it was 1817 or 1818; I think 1817.

1817 or 1818, which was it? I am not certain of the precise time when the Princess arrived.

Recollect the time? I am not certain whether the first time was or was not in 1817. This was the second time of the Princess's being at Rome; but there was a year between Sir W. Gell seeing her at Rome the first time and second time.

You speak now of the second time?—Yes.

How long did you see the Princess at Rome the first time? I saw her there, I think the first time, for three days.

This was when you were at the Villa Brandi? Yes.

You were there with Sir Wm. Gell?—I was.

Did Sir W. Gell sleep in the house at Villa Brandi? No, he did not.

Where did he sleep? He slept at the Hotel de l'Europe.

How far is the Villa Brandi from the hotel at which Sir W. Gell slept? A mile and a half or two miles.

Did Sir William Gell use to dine with the Princess, and return to the hotel in the evening? He did.

At what time did he return? Sometimes late, sometimes early.

At what hour did he generally leave? Some times at twelve, sometimes at one.

How far is Rucchinelli from Rome? Four miles.

When you came from Rucchinelli to Rome, did the Princess go to Villa Brandi? She did.

Was it at that time Sir W. Gell was at the hotel you mention. Yes.

How often did Sir W. Gell dine with the Princess at that time? I cannot say; nearly every day.

#### Re-examined by Dr. LUSHINGTON.

I understand the witness to say, that he saw the Princess twice at Rome, and at Rucchinelli? Yes.

The first time that the witness saw the Princess, did he hear any mention made of Baron Ompteda? No.

Had the witness any conversation with the servants of the Princess, prior to his seeing them the second time at Rome? I saw and dined with the servants the second time.

Was it then, for the first time you heard of Baron Ompteda? It was.

#### Examined by the PEERS.

MARQUIS of BUCKINGHAM. You stated that you had been in the King's service? Yes.

A midshipman in the navy? Yes.

How long have you quitted the service? I left it in 1811.

How long did you remain in it? About 12 months.

Did you enter the service of Sir W. Gell immediately after you left the navy. Yes, immediately.

Do you understand Italian? Yes.

Very well? Not very well.

Can you speak the language? Yes.

So as to be understood—to enable you to make your way in Italy? Yes.

In what language did Majocchi hold the conversation with you? In Italian.

Did any one interpret between you? No, I understood him perfectly well.

I suppose you cannot speak Italian sufficiently well to state the original words Majocchi made use of as to Baron Ompteda; give the expression to us, therefore, in English? Majocchi said, that he and the servants, generally, had made up their minds, if they met Ompteda, to give him a good thrashing, and kill him if they could.

Was that all that passed about Ompteda? It was all he said about killing Ompteda.

Then you mean to say, that he never said any thing to you respecting killing Ompteda, except those words you have stated?—He said further, that he was forbidden to do so by Lieut. Hownam.

Was that all that passed on the subject of beating or killing Ompteda? That was all.

These were the only words? Yes.

I caution you, were these the only words? Yes.

LORD ELLENBOROUGH.—Where is Rucchinelli? About 4 miles from Rome.

Is Rome the nearest town to Rucchinelli? I think it is, there are some small villages nearer.

Which is the nearest village? I don't recollect the name of the nearest; but Albano is the largest.

Is that the nearest village? There is another small one nearer, but I don't recollect the name.

Have the goodness to describe the house of Rucchinelli? I will.

What is the colour of it? White, rather.

Pray describe it? It was formerly a convent with a chapel at the end.

Is it a high house, or a low house? Rather a low house.

Is the court before it or behind it? Behind it, or in the middle of it.

Has it a garden? It has.



Is it walled? I don't think it is. I had walked there, and I saw no walls.

Was it by day or by night that the Princess visited Sir William Gell, when in bed? By day.

Did she come alone? I think Lady Elizabeth Forbes was with her.

Were there any other persons? Dr. Holland was there.

And Albanio is the nearest village to Rucchinelli, as far as you can recollect? I did not say that there is another village nearer.

How far is Frascati from the Villa Brandi? About a quarter of a mile.

Do you think the situation of Villa Brandi higher or lower than Frascati? I think it is lower.

The EARL of LAUDERDALE.—I think you said, at the time the conversation took place, that Lewis Bergami was present?—Yes.

How was he employed? He was occupied in getting orders for the horses, as we were just going away.

Was he preparing the carriage? No, he was not.

You had the conversation twice with Majochi; first, in the servants' hall, and afterwards in the court? Yes.

Do you recollect the names of any of the servants whom you mention as having been present? No, I do not.

Do you remember a servant of the name of Alessandro being there? No, I don't; I did not dine with the livery-servants.

You don't remember Alessandro Franetti? I do not recollect the name.

Did you see a servant of that name at Rucchinelli? No, I did not, to my knowledge. I might have seen him, and not have known him by name.

By a PEER.—How long were you at Rucchinelli? Two days and a night.

The MARQUIS of HUNTLEY.—I ask the witness what ship he served in? I served in the *Poictiers*, under Sir J. Beresford.

When did you first go to Italy? In 1814.

Did you then speak Italian? A little.

The EARL of LIVERPOOL.—I wish to ask the witness, when Majochi told the story in the servants' hall, and afterwards in the court, who were the servants present? I don't know their names.

Were those the servants you saw before or afterwards at the Villa Brandi? I saw some of them afterwards at the Villa Brandi.

Did you not live with them, generally, at the Villa Brandi, while Sir W. Gell was there? No.

And you can only name one of them, this Francisco? I cannot recollect any other name: I knew them all by sight.

The EARL of ROSEBERRY.—Can you repeat, in Italian, the particular phrase used by Majochi, when he spoke of murder? I think I can, a little.

Repeat it.—He said, "*Lui hanno detto a me condurre che lui lasciar me fare il mio dovere che lui vorrebbe bastonare e mazzare come un cane in mezzo a la strada.*"

EARL of ENNISKILLEN.—Let the interpreter translate it.

Mr. Denman.—Perhaps it would be better to let the witness translate it.

The Witness.—I don't read Italian well, but I think I can do it.

The interpreter, however, translated the passage thus, "Theodore Majochi said, he wished he had it in his power to do his duty and his pleasure, that he would thrash him in the street, and murder him in the street."

The EARL of ROSEBERRY.—Will the witness swear to this particular expression? Yes.

I ask whether he is certain that the conversation took place in one of the two years he mentions, viz., 1817 or 1818?—I am not certain whether in 1817 or 1818.

Are you certain it occurred in one or the other? Yes.

The EARL of DARNLEY.—You used the words "come un cane," did Majochi so express himself? Yes; he said "as a dog" or "like a dog."

You say the Villa Rucchinelli is four miles from Rome; do you mean Roman miles? Yes, I speak of Roman miles.

Are they measured miles? I understand that they are.

Did you ever walk from Rome to Rucchinelli? I never did.

You went in a carriage? Yes.

How long were you going? Three quarters of an hour, or an hour.

What is the reason you took so long a time? Because the road is all up hill.

Going the other way, it is all down hill? (A laugh).—Certainly. We were obliged to go very slow: the road, I think, to Rucchinelli is entirely up hill.

Are you sure the conversation took place at Rucchinelli? I am.

By a PEER.—How many milestones are there on the road? I don't recollect noticing any milestones.

Why did you leave the navy? I did not like the sea, and Sir J. Beresford gave me my discharge.

The EARL of LAUDERDALE.—Is Frascati near to Rucchinelli? It is about half a mile, or a quarter of a mile distant.

By a PEER.—Did you ever mention to any person the conversation that took place between you and Majochi? I did.

To whom? To Mr. Vizard.

Was that shortly after the time it happened? It was in London.

Did you, shortly after the time you had that conversation, mention it to any person? No, I never did; I never was asked.

The EARL of LAUDERDALE.—Can you mention the time when you first divulged

the circumstance? It was in the month of September; I do not remember the day.

When did you first see Mr. Vizard? I saw him soon after I arrived; I was at his house.

Have you read the evidence? I have read some part of it.

Have you read Majochi's evidence? I have.

The EARL of HARROWBY.—You say you had a conversation with Majochi in the servants' hall, previous to that in the court-yard. Can you recollect exactly what that conversation was? It was nearly to the same purpose, concerning the affair of Baron Ompteda.

Were the words of that conversation addressed to you, or to the servants generally? They were addressed to me.

Did the other servants hear it? They did.

I think you stated, in the former part of your evidence, that Majochi began the second conversation by asking whether you had heard of the affair of Baron Ompteda; He did.

By the EARL of ROSEBERRY.—Was the conversation in the servants' hall, and in the court-yard, on the same day? No, it was not.

Did you mention it to Sir W. Gell? I did, after I read the evidence of Majochi.

And before you went to Mr. Vizard; No; afterwards.

The MARQUIS of LANSDOWN.—Did the witness take any part in the conversation on that occasion? No.

Did you take any part in the conversation with Majochi respecting Baron Ompteda? I did not take any part in it farther than to give ear to it; but he told me more particulars in the yard.

By a PEER.—You have given us, in Italian, a part of what Majochi said to you; can you give the Italian words with which he began his conversation? Yes, they were these—*"Avete inteso cosa ha detto la gente di servizio dell'affaire di Ompteda."*

The EARL of ENNISKILLEN.—You said you were a midshipman in the *Poictiers*, what time were you there, and why were you discharged? I did not like the sea, and Sir J. Beresford procured my discharge.

Where? at Portsmouth.

When? 2d. Feb., 1811.

When you had the second conversation with Majochi, did he allude to the former conversation in the servant's-hall? He did.

In what way? He stated more particularly his own idea as to what he meant to do.

The MARQUIS of BUCKINGHAM.—You mentioned this matter to Mr. Vizard after you read the evidence of Majochi? I did.

Did you mention it to any body else? I did.

To whom? I mentioned it to Mr. Whitcomb.

Did you ever mention it to your old mas-

ter, Sir W. Gell? I did, after I read the evidence.

How came you to go to Mr. Vizard?—I understood he was the solicitor to her Majesty.

You were told so? Yes.

Who told you? Sir W. Gell.

Before you mentioned it to Sir W. Gell, did you mention the conversation to any other persons, beside him and Mr. Keppel Craven's servant? I did.

Name them. Mr. Milward, Mr. Crackler, and others.

Where did you mention it? I mentioned it to Sir W. Gell and some other persons at Brandenburg house.

Did you not tell it to Mr. Vizard in the street? No. (As we understood.)

To whom did you mention it in the street? I really cannot recollect having mentioned it to any one.

Did you mention it to Le Brun? Yes, and to a person named Mitchell.

By the DUKE of CLARENCE. [Were you in any other ship but the *Poictiers*? No, my Lord.

By LORD COLVILLE. Have you got a certificate from Sir John Beresford? Yes, I got a certificate, but I have it not now.

You had a certificate, but you have lost it? Yes.

What situation did you occupy in the *Poictiers*? I was a midshipman.

How long were you a midshipman in the *Poictiers*? I don't know exactly.

What situation were you in before you went on board the *Poictiers*? I was at sea in a merchant vessel when a boy; I was afterwards on land, and got my livelihood in the best way I could.

Were you never in his Majesty's service since you left the *Poictiers*? No.

By LORD ENNISKILLEN. From what part of the country are you; what countryman are you? I am an Englishman.

Of what place are you a native? Of Essex, near Colchester.

By the DUKE of CLARENCE. You were never in his Majesty's service previously to serving in the *Poictiers*; No.

When you entered how were you rated; whether as a midshipman or as a youngster? I went with Sir John Beresford.

Did you at once go to the quarter-deck as a positive effective midshipman? I did not go to the quarter-deck for some time, but I expected from the first to be rated as a midshipman.

Were you at once rated as a midshipman? I am not sure that I was at the time, but I was rated a midshipman when I left the *Poictiers*.

The witness is perfectly sure that he left his Majesty's service for nothing but at his own request? Yes, I am sure I left it at my own request.

By desire of the Attorney-General, the

**LORD CHANCELLOR** asked, Was Francesco servant to Mr. Hownam? I am not sure; I only knew he was in her Royal Highness's house.

Was there any other of that name but he? No, none that I know.

**The LORD CHANCELLOR.** You may withdraw.

**Mr. Brougham.** Let Mr. Sicard step up to the bar.

**JOHN JACOB SICARD**, a most respectable looking and elderly gentleman, came forward and bowed most respectfully to their Lordships. He was examined by **Mr. Brougham**.

When did you first enter into the service of the Queen? One-and-twenty years since, next February.

You are a foreigner? I am a naturalised Englishman.

Of what country are you a native? Of Anspach.

Were you in any place in this country before you entered the service of her Royal Highness? Yes, I was ten years in the service of my Lord the Marquis of Stafford. (Here the witness bowed most profoundly to the Noble Marquis.)

In what capacity did you serve the Marquis of Stafford? As cook.

By whom were you placed in the service of her Royal Highness? By his present Majesty's orders, through Mr. Beck, who is since dead.

Were you afterwards promoted in her Royal Highness's service? Yes, in October after I went; her Royal Highness was pleased to make me *maitre d'hôtel*.

Did you remain in that capacity while you were in the service of her Royal Highness? Yes.

Did you always serve her Royal Highness in that capacity till she went abroad? Yes.

When was that? In August 1814.

Did you accompany her Royal Highness to Brunswick? Yes.

And from Brunswick to Italy? Yes, by Strasburgh through Switzerland.

Do you remember having had occasion to hire a courier at Milan? Yes, I went by Sir William Gell's orders to hire a courier.

At Milan? Yes.

Who was that? The person recommended by the Marquis Giulighiri.

Did you hire him? Certainly I did.

Was it Bergami? Yes.

Had you any communication with her Royal Highness on the subject? No, I had not.

Do you happen to recollect whether her Royal Highness dismissed a courier at that time? No.

Do you know whether a courier was dismissed soon after? Yes, soon after a courier was dismissed who had been hired at Geneva.

No. 43.

Do you recollect the house her Royal Highness lived in the first night at Naples? Yes.

Was there sufficient accommodation for her Royal Highness and her suite. Not conveniently.

Were other arrangements made the day after? Yes, several alterations were made.

Do you recollect where Bergami's chamber was the first night? Yes, it was where Charles Harford slept, or somewhere there, over Lady Elizabeth's room.

Did he continue to sleep there? I believe for one night or two only.

Did he then remove to another chamber? Yes.

Who appointed the other chamber? I did.

What chamber was it? A small cabinet.

Did you make that arrangement by the direction of her Royal Highness? No, I did not.

Did any act with you in making that arrangement? Yes, Hieronymus.

Was there any particular reason for appointing that small cabinet? There was a back door to the garden which was not safe; therefore it was thought safe that a servant or some one should sleep there.

During the time that you were in her Royal Highness's service had you occasion to observe the manners of her Royal Highness, now her Majesty, towards her servants? Yes, many times.

Had you occasion to remark how she treated them? Yes.

And how she conversed with them?—Yes.

Did her Royal Highness converse with yourself? Many times.

In what manner did her Royal Highness converse with her servants? Generally uncommon kind, almost to a fault.

Was this manner of her Majesty general towards all her servants, or was it confined to one individual? It was general to all.

Have you ever had occasion to walk near her Royal Highness, or with her? Many times, by her Royal Highness's command.

Did you ever walk so with her Royal Highness in a garden? Yes, in the garden and pleasure grounds at Blackheath, many times.

On those occasions did her Royal Highness talk with you? Yes, very condescendingly.

Has her Royal Highness ever had occasion to take your arm when so walking? No, except when ascending steps, or a rising ground, and sometimes in course of conversation her Royal Highness did me the honour of laying hold of my arm, and saying, "Do you understand what I mean—do you agree with me?" Your Lordships see how I hold the arm. (A laugh.)

How long did you walk so? About half an hour perhaps.

Did you walk so in the garden at Naples? No, I think not.

You don't recollect whether you did or not? I do not.

Do you remember a masked ball at Naples? Yes.

Was it given by her Royal Highness? Yes.

To the Court of Naples? Yes.

Who had the management of it? I had the management.

Did any one assist you in the management? Yes, Mr. Parelli.

Who is Parelli? He is a very respectable person, a merchant, known to some of your Lordships; he is known to Lord Landaff.

Were any of the suite masked? Yes, Hieronymus and I went together.

How were you dressed? As Turks.

Do you happen to recollect her Royal Highness attending that masquerade herself? Yes.

Did she wear one dress or more dresses?—I recollect two dresses.

Do you recollect what her Royal Highness's dresses were? One was a kind of country dress, and the other a Turkish dress.

You are no longer in her Majesty's service? I have a pension as long as her Majesty is pleased to give it.

When did you quit her Majesty's service? In the last three or four months.

*Cross-examined by the SOLICITOR-GENERAL.*

What amount of pension have you? Four hundred pounds a-year.

Depending on her Majesty's pleasure?—Entirely so.

You entered her Majesty's service some time before she went abroad, and left her Majesty at Naples? Her Majesty left me. *(a laugh)*

Where did you go to from Naples? I went with the servants, and horses and baggage, to Genoa.

Did you remain there till her Royal Highness arrived? I left it immediately.

Where did you go? Immediately for England.

When did you join her Royal Highness again? Not till I went to inform her Majesty of the news of the King's death.

So that the only time you speak to is during the time of her Majesty's residence at Naples? Exactly, yes.

Was it your business to arrange the apartments for the suite? It was mostly my business.

Do you remember stopping at the country-house of Murat the night previously to going into Naples? Yes.

I ask you whether Wm. Austin did not sleep that night in the same room with her Royal Highness? That I cannot tell. I went off immediately to Naples, to prepare apartments for her Royal Highness and suite.

Before you left that place had you made arrangements for the accommodation of her Royal Highness and suite during the night? I had not, because the Court Marshal, *Marschal de la Court*, did that.

Then you have no means of knowing whether an apartment there was allotted to Wm. Austin? No.

With respect to the apartment occupied by Bergami at Naples, had it not a direct communication by a passage with the apartment occupied by the Princess? Not exactly so, but through several doors.

Was there a small cabinet contiguous to the apartment of Bergami? There were several: two.

Was there a public passage, and parallel to it, a smaller passage, leading the whole length? There was.

Was there at the end of that passage a small cabinet? Not to my recollection.

Was it so constructed that a part of the passage might be enclosed so as to form a small cabinet? I cannot answer what might be done.

Was there a door opening from the room of Bergami into that passage? There was.

Was there another door in that passage opening into the large passage? I believe there was.

Was there a door opening from that passage also into the room of the Princess? I cannot answer about that, because I have no plan.

The Solicitor-General then produced a plan to the witness, observing that he did it merely to make the question more intelligible to the witness; not with a view of submitting the plan to the house.

The witness looked at the plan, and made some inaudible observations upon it.

Mr. Brougham said that it was material for the house to know that the witness had mentioned a door which was not found in the plan of the Solicitor-General, and that when that was stated his Learned Friend had withdrawn and abandoned his plan.

The Solicitor-General begged that Mr. Brougham would not make so incorrect a statement.

Was there not a communication along that passage, through those doors you described, to the bedroom of the Princess? Yes.

Did any body sleep there? Not that I know of.

The rooms in which Hieronymus, Dr. Holland, and Wm. Austin slept, all communicated with the other wide and public passage? They did.

And there was no person slept in the line of communication you pointed out between the room of the Princess and the room allotted to Bergami? I understood that when Bergami was ill a servant was to have slept there; but I never saw it.

Then, [with that exception, there was nothing to interrupt the communication, provided the parties were desirous of communicating between one room and another? I do not recollect that there was.

At what time in the evening did you arrive at Naples? I arrived in the morning.

And at what time the Princess? In the afternoon.

What kind of weather was it? Bad weather: rain and wind.

Who were the servants that breakfasted together at Naples? All the upper servants in the steward's room: Bergami, Hieronymus, De Mont, myself, and Lady Elizabeth's servant.

Will you undertake to swear that Bergami regularly breakfasted at Naples in that room? Mostly with us; he was very fond of meat, and used to go down into the coffee-room, which we called the office, and have some meat for his luncheon or breakfast, as he did not like tea. The Italians frequently do not take tea; they breakfast later, and make it a luncheon.

At the ball at Naples you closed the ball with your Turkish dress? I closed the ball! (with surprise.)

I mean the ball was closed. You describe two dresses worn by the Princess; which was the last—was it not the Turkish dress? I do not know which was the last dress: two I saw; I had but one dress.

I am talking of those two dresses—the dress of a peasant and of a Turkish lady; was not the Turkish lady's the latter of the two? I should think it was the second, but I will not be positive.

Did several persons call on the Princess on the morning after her arrival at Naples? Several persons of distinction called for several days.

Do you remember, particularly, the morning after her arrival? Of course, particularly at first, there were a number of visitors.

Were they kept waiting by the Princess; or did she appear at first? That I cannot tell exactly.

Do you recollect at all whether you went for the purpose of inquiring for the Princess? I did not wait in the drawing-room. I was not page.

Do you recollect going in quest of the Princess in consequence of persons waiting for her appearance? I cannot charge my memory: it might be so, for it happened in this country more than once.

But have you any recollection of the circumstance on the first day after her arrival at Naples? No, not at Naples.

Have you any recollection of it on the second day? I have not; not at Naples at all. I know that it happened at Blackheath once or twice.

What was Bergami's duty at Naples? He rode as courier to Naples, and afterwards waited as page, handing the breakfast up, and waiting at table.

Did he share the duty with Hieronymus? Yes.

Was Hieronymus also a courier? He has been on the road; but as soon as we came to Naples he acted as page.

When you talked of the Princess taking your arm, it was when any impediment, steps, or any thing of that kind occurred, or touching you in conversation? Yes.

You do not mean to say or insinuate that there was any thing further than that? No; God forbid!

As far as you recollect, then, this plan (showing it to him) is correct with the single exception of some door omitted? I cannot decide upon that, as I have not sufficiently taken notice of those rooms. I never dreamt of such a thing happening as this.

When was your pension granted to you? It is no pension: it is a continuance of my salary.

A continuance of your salary? Yes: I had 300*l.* at first; but the Princess graciously granted me 100*l.* a year more, for acting for Mr. Cooper as *Homme d'Affairs*.

When was that added? Three or four years ago.

Have you not been on the continent to bring over witnesses? I had a letter from her Majesty to Carlsruhe.

Did you bring over any witnesses to this country? No.

Had you known Bergami at all before you met with him at Milan? Never.

You went out, you say, to communicate to the Princess the death of the King: where did you see her at that time? I waited for the arrival of the Princess at Leghorn.

*Re-examined by Mr. BROUGHAM.*

Do you recollect, in the smaller passage you mention, that there was a water-closet? There was a small place used for the purpose.

To whom did you take the letter to Carlsruhe? To the agent, to Mr. Lemann.

Do you mean that it was a letter to him or to any other person? No, it was directed to the great Chamberlain, and sealed by her Majesty.

*Examined by the PEERS.*

By LORD ELLENBOROUGH.—When Bergami was first taken into the Princess's service, were you desired to make any inquiries into his character? No, because the Marquis Giziliegghi recommended him.

And you thought that sufficient? At that time he was only engaged as far as Naples.

Did you make any observation as to his manners? They were proper.



Did he seem superior to the situation for which he was hired? I believe he was not quite so chatty as the Italians generally are. I believe he behaved properly as far as I saw.

Is the single circumstance of his not being so chatty the only one that distinguished him from other couriers? I was not acquainted with couriers in general.

Did his manners appear to be superior to his situation? Not particularly so; he was very civil and obliging.

You did not consider him too much of a gentleman to act as courier? Not exactly so: he never showed himself in that way: he never refused to do any thing when he was told.

Were his manners rather those of a gentleman than of a courier? He might have been rather more of a gentleman than of the lower sort.

Where did William Austin sleep on the journey to Naples? In different rooms; mostly with the Queen.

Was that his usual custom, or contrary to it? On the journey.

Did you receive any order for alteration? None whatever.

In fact, did William Austin sleep less frequently on the journey to Naples in the room of the Princess? On the journey I believe he always slept there, but at Naples I believe an alteration took place.

You spoke of a room in which you understood a servant was to sleep when Bergami was ill: was there a fire-place in that room? I cannot charge my memory with that.

By the EARL of DONOUGHMORE.—You said that you hired Bergami. Did you engage him in the Princess's service without any previous communication with her upon the subject? I did.

Were you in the habit of engaging all the servants for the Princess's family? Yes.

Were you in the habit of engaging them all, as you did Bergami, without any previous communication? That was an exception: I only engaged him as far as Naples.

Was there any other servant engaged in her family at Naples except Bergami? Yes, Theodore.

Was Theodore the brother of Bergami? No.

Mention any other servant engaged in the service of the Princess at Naples besides Bergami and Majocchi? There were several inferior servants.

Was the sister of Bergami, Faustina, engaged at Naples? No.

Was the brother of Bergami engaged at Naples? None of his family, while I was there, was engaged but Bergami.

You quitted the service of the Princess at Naples, and did not return to it again till you went over after late King's death? Yes.

In what situation at that time did you leave Bergami? Was he a servant, or had he

begun to be taken up as a gentleman? He was page, valet-de-chambre, and courier—an upper servant.

Then, having hired Bergami as a servant, you left him as servant? Yes.

You have mentioned, and I am sure very truly mentioned, the great condescension of her Royal Highness to all her servants. You were 21 years with her; and during that period did that condescension ever go the length of admitting any servant, hired as a servant, to her Royal Highness's table. Not to my knowledge.

By the EARL of KINGSTON.—Do you know with whom Bergami had lived before he went into the service of the Princess? I understood with General Pino.

Did you ever understand that he had lived with Mr. Grattan? I do not know.

[The last question and answer were ordered to be struck out of the minutes.]

By LORD CATHCART.—Was Lady Elizabeth's apartment in the same part of the house as your own at Naples? Yes.

Was there any thing between Lady Elizabeth's apartment and your own? Yes, a large passage room.

What was the breakfast hour of the servants? Ten o'clock mostly.

Did you allot the apartments of the different members of the suite at Naples?—I did.

Did you allot an apartment to William Austin? No.

Where did you think he was to sleep? In his own travelling bed. I supposed he would sleep in the Princess's room, as he used to do.

Did you receive orders to make a change? No orders whatever. The Queen afterwards appointed it.

To your knowledge did Wm. Austin sleep in the Queen's room? Yes, at first.

How soon after you got to Naples did Wm. Austin change from the Queen's room to another? The Princess spoke to me that he was too old, and should have a room for himself.

Was that soon after you arrived? I should think it was a week, or perhaps sooner.

Had Wm. Austin on any former occasion, to your knowledge, slept in any room but the Queen's, on the journey subsequent to leaving Brunswick? I cannot recollect.

By another PEER.—How long were you in the Princess's household? On the 15th of February, 1815, I left Naples.

According to your opinion, did you ever see any improper familiarity between the Princess and Bergami? Never; never, I am positive.

I think you mentioned that you were sent from this country with a despatch regarding the late King's death. Were you sent by the government or by some other persons? By her Majesty's legal advisers.

Do you know whether any other courier was sent by government with the information? Not to my knowledge.

By the MARQUIS of LANSDOWN.—Whether, to your knowledge, at Naples, the Princess ever breakfasted with Bergami?—Never to my knowledge.

Is it probable that such a circumstance would have occurred without your knowing it? It might have been, but I do not believe it.

Did you ever know any person who ate and drank in the steward's room promoted to the Queen's table? Not to my recollection.

At what hour did the Princess breakfast at Naples? At no regular hour; 11, 12, or 1.

By the EARL of ENNISKILLEN.—You remember, on the second night after arriving at Naples, the Princess going to the Opera; at what hour did she come home? I do not know; I had no business to wait.

You said that you hired Bergami: what wages did you agree to give him? At first 40 louis-d'ors, and at Naples it was fixed at 70.

Do you remember when you first saw him? He was sent to me by the Marquis Gizilighiri.

Had you seen him or known him before that time? No.

How was he dressed then? He had on a scarlet waistcoat, laced with gold, and a blue surtout coat.

Did you inquire whether he was married or unmarried? I never inquired.

Did you know at Naples that he was married? No.

Was it known in the family? No.

You knew nothing of his having a child when you left Naples? No, no.

When you were sent to England, what passed between the Princess and you? The Princess said, that for the present she did not want me, and that she would send for me when she did.

When did the Princess say that she did not want you? Two or three months before I left at Naples.

And you had no further communication from her Majesty desiring you to remain in England? No; I waited for orders.

Which orders you never received? No; but I was prepared.

Did you wait three years without orders? I was so prepared that I could have gone at a moment's warning.

By the EARL of HARROWBY.—If I understand your description of the house at Naples, a person wishing to go from the apartment of the Princess to Bergami's room might do so by going through a passage, and then through a small cabinet, and so on into Bergami's room? As far as I can recollect, that is precisely the case.

If a person wished to go from the apartment of the Princess to Bergami's room,

was there any other way by which a person might go but that you have mentioned? No other way, not well: there was a door from the garden.

Was there any other way by which a person might go from the apartment of the Princess to Bergami's room, except by going into the garden and entering Bergami's room by the door which led into the garden?—There were two ways through the passage, and through a little room.

How many doors were there in the room where Bergami slept?—Two, to my recollection.

Do you mean to include the door into the garden?—No; two besides.

One of those doors opened into a small cabinet: is that so?—Exactly.

Into what room or passage did the other go?—Into the public passage.

Was there any door leading directly from Bergami's room into the garden, without passing through any passage or intermediate room?—You must go into the little passage room.

Do you mean by that room the room where you mentioned the servant slept when Bergami was ill?—I cannot tell.

Were there two doors in the small cabinet where the servant slept;—Only one, to my recollection; I do not know that the servant slept there.

Then adjoining Bergami's room there was another cabinet besides that where the servant slept?—

Mr. Brougham objected to the assumption that a servant had slept there: the witness had negatived his knowledge of the fact.

The EARL of HARROWBY lamented that the House was in possession of no plan, and, without one, all possible attention could not fix the precise situation of the rooms.

By the EARL of ROSSLYN.—Were there not two ways by which a person could go from Bergami's room to that of the Princess: one the public passage, and the other the smaller passage?—Yes.

Can you state the distance between the two rooms, or near it? I should think the length of this House, or rather farther; but I never measured it.

By the MARQUIS of BUCKINGHAM.—If a person had gone to Bergami's room by the public passage, must he not have passed by the doors of Dr. Holland and other gentlemen's rooms? Yes.

But if a person had gone to Bergami's apartment by the apartment by the private passage, would not that person have arrived there without passing by the door of any room where any other person slept? Yes.

By LORD CALTHORPE.—While you were travelling with the Princess, had you no opportunity of observing the appearance and manners of other couriers? Yes, one.

Had you no opportunity of observing the manners and appearance of other couriers,

whom you met in the course of your various journeys with the Princess? I never saw many.

Did you never observe them? Not particularly so.

In a former answer you stated that you considered the manners of Bergami superior to those of the lower class of couriers? Of servants.

Do you recollect the names of the various persons whom you found in the suite of the Princess on joining her at Leghorn? Not one.

By the LORD CHANCELLOR, at the suggestion of Mr. Brougham.—Were there any doors in the rooms intervening between the room of Bergami and that of the Princess into the passage? Yes, two from the passage.

Do you mean the public passage? Yes.

Have you not observed, in the course of 21 year's service, that the Princess was particularly fond of young children? Yes.

Did she not take extremely great fancies to young children? Yes.

The Solicitor-General objected to this question; and the Lord-Chancellor observing that he did not know what might be meant by fancy, so used, it was erased.

The witness was ordered to withdraw, and it being a quarter past four o'clock the House adjourned.

### House of Lords,

MONDAY, OCTOBER, 9, 1820.

The LORD-CHANCELLOR took his seat a few minutes before 10. After the usual forms had been gone through, the Counsel were called in, and the examination of witnesses for her Majesty was resumed.

*Dr. HOLLAND sworn—examined by MR. WILDE.*

Did you leave England as physician to the Princess of Wales in 1814? I did.

Did you proceed to Naples with her Royal Highness? I did.

Did you remain there during the whole period of her Royal Highness's residence at Naples. I did.

What description of visitors did her Royal Highness receive at Naples? With very few exceptions, all the principal nobility.

Where did you go after you left Naples? To Rome, and then to Genoa.

Were you on board the *Clorinde* with her Royal Highness? I was.

What description of visitors did her Royal Highness receive at Genoa? All the English of distinction, and others.

Did you ever, during that period, observe that her Royal Highness avoided the English? I did not.

In what situation was the house in which her Royal Highness resided at Naples with respect to publicity? The house her Royal Highness occupied was in the suburbs, about half a mile from the city, but in a situation thickly inhabited.

A conversation arose in consequence of a Peer observing that the answers of the witness were not audible.

The EARL of DARNLEY said, it was very material the witness should be audible, for they had already seen the short-hand writer incorrect in transcribing one or two answers.

The LORD-CHANCELLOR observed, that it was fit that witnesses who came to that bar should speak in a way to make themselves heard; that they ought to do this, they had been told over and over again. He hoped Dr. Holland would endeavour so to raise his voice as to make it unnecessary for the short-hand writer to repeat his answers.

LORD REDESDALE said a few words on the necessity of the witness speaking distinctly.

The EARL of LAUDERDALE thought it proper that the short-hand writer should always read over the questions and answers, for this plain reason—that, in so doing, their Lordships had a greater security against error.

Did you know a person in her Royal Highness's service named Bergami? I did.

Did he dine with her Royal Highness while you were at Genoa? He did not.

During the period you resided with her Royal Highness, what conduct did she observe towards Bergami? Always that conduct which became a mistress towards her servant.

What did you observe to be the conduct of Bergami towards her Royal Highness? Never any other than unpresuming and respectful.

Was there any understanding, before you left England, as to the period which you were to stay with her Royal Highness? There was a general understanding that I was to stay a year and a half or two years.

At what place did you quit her Royal Highness's suite? At Venice.

Had there been any conversation as to your leaving her Royal Highness before you arrived at Venice? There had at Milan.

At whose suggestion was it that you went on to Venice? It was my own.

When you left her Royal Highness at Venice, was it understood that you were to quit her household entirely, or to return? It was understood that I was to return.

Did you leave articles belonging to you in the household of her Royal Highness, with the intention of returning? I did.

What was the occasion of your leaving the Princess at Venice, and coming to England? At Milan her Royal Highness suggested to me that I might make a tour of six weeks to

Switzerland. I expressed my wish that, instead of going there, I should be allowed to return for a short time to England, on private business. Her Royal Highness agreed. It then became merely a question whether I should go first to Venice, or return direct to England. I preferred the former.

Do you recollect the names of the British nobility who visited her Majesty at Genoa? I recollect Lord and Lady William Bentinck, Lord Malpas, Lord Exmouth, and all the superior officers of the English army.

*Cross-examined by the SOLICITOR-GENERAL.*

Did you go from England with her Royal Highness? I did.

Do you remember Bergami meeting with an accident at Genoa? No: not at Genoa, but at Naples.

Was he confined to his bed, by that accident, for some time? Yes; during three or four days.

Do you know what servant attended Bergami during that time? Yes; Majochi.

Did he not sleep in a small cabinet adjoining to Bergami's room? I am not aware where Majochi slept.

Do you remember whether there was a sofa in that cabinet? I do not.

Am I to understand by that, that you do not recollect one way or another? I do not recollect one way or another.

In what situation did the house stand in which her Royal Highness resided at Genoa? In the suburbs; in a populous situation.

Was it not surrounded by a court or garden in the front, and by a garden and wood behind? There was a small garden in front, and a terrace garden with a wood behind.

Were you in the habit, during your residence at Naples and Genoa, of dining every day with her Royal Highness? I was, at Genoa every day; at Naples not.

Do you remember being at a masked ball, or masquerade, given by her Royal Highness at Naples to the King? No, I was not at it.

Were you at a masked ball in the theatre of San Carlos when her Royal Highness was present? I was.

Whom did her Royal Highness go with to the theatre? I do not know; I was not aware until the following morning that she had been there.

Did you remain in the theatre the whole time of the entertainment? No, I believe only about an hour; certainly a very short time.

Am I to understand that you do not know with whom her Royal Highness went to the theatre that evening? I do not.

You have said that, as far as you observed the conduct of her Royal Highness to Bergami, it was that of a mistress to her servant: permit me to ask whether, upon any occa-

sion, you ever observed any impropriety of behaviour on the part of her Majesty? or whether you ever stated you had observed such impropriety? I never observed, or stated I observed, any such impropriety.

Are you acquainted with a minister at York? I am.

Having reminded you of that, allow me now to ask whether you ever stated to that gentleman that you disapproved of her Royal Highness's conduct towards Bergami? I never have.

Have you ever informed any person whatever that you did not think the conduct of her Royal Highness was proper, or words to that effect? I have never stated any thing to that effect.

I ask not with reference to Bergami, but whether you have not made any observation of this kind? I am so satisfied of the negative, that I can venture to swear it.

We all know, Dr. Holland, that you have published some travels. I wish to know whether, in publishing them, you have had occasion to alter any opinion you had previously entertained respecting her Royal Highness?

Mr. Wilde objected to this question.

The Solicitor-General then put the following:—

Have you always entertained the same opinion which you now have respecting her Royal Highness? I feel it quite impossible to describe all the fluctuations of opinion I may have had at different times; but of this I am satisfied—that I do not recollect any change whatever in my opinion respecting her Royal Highness.

Did you ever say, or ever inform any person, that the conduct of her Royal Highness was, in your opinion, such that no person who regarded his character could continue attached to her household, or words to that effect? I am satisfied I did not.

Did your duty require you to be very much about the person of her Royal Highness; No; very little.

You were engaged in your own studies and pursuits? Certainly; but they did not interfere with my attending her Royal Highness and suite professionally.

At Naples were you much engaged in your own pursuits? Not more at Naples than elsewhere during my absence from England.

I think you have said that you did not dine frequently with her Royal Highness at Naples? As far as I recollect, I said I did not at Naples always, but always at Genoa.

Were not the principal opportunities you had of judging of her Royal Highness's conduct afforded by the times you dined with her? They were.

Except when you attended professionally, or when you dined with her Royal Highness, you had no opportunity of seeing her in the morning or evening? Except these times, or when she called for my attendance, I had no

opportunity of seeing her Royal Highness in the morning and evening.

During the different times you dined with her Royal Highness, did Bergami wait at the table? Yes.

Both at Naples and Genoa? He did.

How long were you at Milan before you went to Venice? Exactly a fortnight.

During your residence at Genoa, do you recollect any individual of the family of Bergami joining her Royal Highness? I do.

Was it Bergami's sister Faustina? I was not aware of that.

Do you mean that you were not aware that the individual was Bergami's sister, or that you did not know her name? I was not aware that any person of the name had entered her Royal Highness's service.

Did you know a person named Martini? I did not.

Was there a little child of the name of Victorine who lived in the family? There was a little child, but her name I do not know.

Was there a female who came with that child? I saw an elderly person, whom I believe to be the mother of Bergami.

Then the only female you recollect was the person you describe as the mother of Bergami? I do not recollect any other; but it is possible there might be others.

Do you remember Louis Bergami? I do.

In what capacity did he enter into her Royal Highness's service? I am not aware.

Did you see him wait as a servant at table? I did.

At what time of your residence at Genoa was it that Louis Bergami entered into her Royal Highness's service? I do not recollect.

Was it towards the beginning or termination of the residence? Towards the beginning, as far as I can recollect.

How long did Lady Charlotte Campbell continue with her Royal Highness's at Milan? Till within three or four days of her departure.

After her departure, was there any lady in waiting except the Countess Oldi? There was not.

How soon after the departure of Lady Charlotte Campbell did the Countess Oldi enter the service of her Royal Highness? As far as I recollect, in about two days.

You did not travel, I suppose, in the same carriage with her Royal Highness? I did not constantly; I have occasionally done so; but rarely.

I am now speaking of the journey from Milan to Venice? I did not.

When the Countess Oldi entered the service of her Royal Highness, were you aware that she was the sister of Bergami? I was not.

How long after did you come to the know-

ledge of that fact? I did not know it while in attendance on her Royal Highness.

What period elapsed between Madam Oldi's entering the service and your ceasing to be in attendance? I believe about eight days.

When the Princess arrived at Venice, to what hotel did you go? To the Grande Bretagne.

Did she continue there the whole period of her stay? She did not.

How long did she remain? But one night, I believe, at the hotel itself.

Where, then, did she go to? To a house immediately adjoining, and I believe, belonging to the hotel.

When at Naples, was Mr. William Burrell of your party? He was.

Did Mr. Burrell and you remain during the whole period at the hotel de Grande Bretagne, where her Royal Highness first lodged, or did you go to the house adjoining, afterwards taken by her Royal Highness? We remained at the hotel.

Did you dine with her Royal Highness in the house to which she removed, or did you dine at the hotel? I dined with her Royal Highness.

Every day: I believe every day.

Did her Royal Highness leave Naples before or after you? I left it first.

Did you ever afterwards join her Royal Highness? Never.

Do you know whether Madam Oldi can speak French? I do not know.

Did you ever hear her speak it? I always conversed with her in Italian.

*Re-examined by Mr. WILDE.*

You have been asked as to the situation of her Royal Highness's house at Genoa, and you said it was in a garden; was it in a conspicuous situation, or in a private one? In a conspicuous situation.

Was it particularly conspicuous? It was raised upon a terrace.

Was it conveniently situated for receiving visitors from Genoa? I believe it was.

You have stated, that when you quitted her Royal Highness you returned to England: have you remained in England ever since? No, I have not.

How long have you been in England since you quitted the service of her Royal Highness? I have been out of England three or four times.

Have you generally lived in England since that time? I have; my absences from England have been but for short periods.

Have you practised for yourself as a physician in London during the last five years? I have.

Have you ever been examined during that period respecting the conduct of her Royal Highness? Never.

Has any one asked you to be examined during that period? Never.



*Examined by the PEERS.*

By LORD ERSKINE.—During the whole time of your attendance on the Princess at all Places, did you ever observe any indecent, immodest, or improper conduct in her Royal Highness? I have not.

By EARL GREY.—Have you, during any part of your residence with her Royal Highness, observed any thing in her Royal Highness's conduct which was calculated to bring disgrace upon the country? As far as I can say, decidedly not.

I understood Dr. Holland to say that he had never before been examined upon this question; never previously to his coming before the bar of this house. I wish to know whether any application was made to you upon the subject, during the time you were in her Majesty's service? Certainly not.

By the EARL of LAUDERDALE.—Did you attend Bergami during his short illness at Naples? I did.

How did you go into his room? I went in by a door which communicated by a passage at right angles with my door.

Then Dr. Holland, you had no occasion to pass through that cabinet which you say is adjacent to the room of Bergami?—As far as I recollect, I passed through no cabinet in going to Bergami's room.

In going from your room to Bergami's you went through a passage leading to the great corridor? I did.

Do you recollect the dress in which Bergami waited on her Royal Highness at table at Naples? I do not.

Dr. Holland has said that he does not recollect any female person of the name of Faustina in her Majesty's suite at Genoa; does he recollect her at the time they were residing at Genoa—about the time when the mother of Bergami and the little piccaroon came to live there?—My recollection does not assist me upon that event. At this time I do not recollect any such female; but it is very possible that some of her Majesty's servants may.

Do you know the room in which her Majesty slept at Genoa? I do not.

Adjacent to the room where you have described yourself to have slept, was there not, at Naples, a room where Hieronymus slept? There was.

Next to that room was there not another in which young Austin slept? There was. Was there not another passage out of that great corridor, before you went into the little passage which led into Bergami's room—was there not a passage or room which led into the dining room?—The only entrance into it was through the small passage in which the door of my room was, as far as I recollect.

Then the door of the dining-room, by which you entered into that great corridor, No. 43.

was directly opposite to your room, was it not? No, it passed through the dining-room.

Where did the passage, which went out of the great corridor, and your room go to afterwards? Into the dining-room: it stopped there.

It did not, then, go past the dining-room, but ended there?—Directly at the dining-room.

EARL GROSVENOR here remarked, that the Noble Earl had put some of his questions to Dr. Holland, assuming that Dr. Holland had admitted the existence of the cabinet; which, in fact, he had not done, as would be found by a reference to the short hand writer's notes.

LORD GRANTHAM said, that, for the sake of saving time, he would ask a question while that reference was being made. A former witness had stated, that in that passage where the Princess's, Dr. Holland's, and Bergami's rooms were, there was a water closet; did Dr. Holland recollect that place? I do not.

EARL GROSVENOR explained, that his only object in troubling the house was to show that Dr. Holland had said nothing about a cabinet, as had been assumed by the Noble Earl (Lauderdale).

A PEER asked—Did you ever see Bergami and her Royal Highness together, after Bergami was raised to the rank of chamberlain? I never did.

The EARL of LAUDERDALE was certain that Dr. Holland had said he did not recollect whether Majocchi slept in the cabinet. (*Cries of No, no.*)

The EARL of GROSVENOR was sure the witness had not said so.

[The short-hand writer here read the required part of his notes, which closed with the following question and answer:—

Did he sleep upon a sofa in the cabinet? I do not recollect where he slept.]

EARL LAUDERDALE contended, that in another part of the evidence, which was read, Dr. Holland had made use of the words "something like a cabinet."

By the EARL of KINGSTON.—Do you, of your own knowledge, know anything of the Queen for the last six years?—No; I believe, at least that the time when I quitted her Royal Highness's service was 5 years since, exactly in June last.

LORD ROUS.—To whom, Dr. Holland, did you dedicate the book of travels which you have published?—There was no dedication at all.

Then I beg to ask whether you did not intend to dedicate that book to her Royal Highness? (*A laugh*). Have you never said that you intended to dedicate it to the Princess?—I have not the slightest recollection of saying so.

Will you now say, upon your oath; that

you never have said so?—I can only say to the best of my recollection, that I never said so.

Can you say positively that you never said so? I do not recollect having entertained the idea of such a dedication.

When the Countess Oldi joined the Princess's party, was she introduced to you?—She was so, as far as I recollect, by her Royal Highness.

What did her Royal Highness say on that occasion?—I cannot particularly recollect such a circumstance; I believe nothing more than announcing her name, and saying that the Countess Oldi would accompany her Royal Highness to Paris.

Did the Queen speak Italian?—She spoke it but imperfectly during my stay with her Majesty.

Did she state how she became acquainted with the Countess Oldi?—She did not.

Did it not appear very extraordinary to you that the Countess Oldi should have been introduced to you, without stating who the Countess Oldi was, or in what manner her Royal Highness had become acquainted with her?—

Mr. Brougham submitted to the House that this question was inadmissible. The Noble Lord was assuming a thing which was not to be found in the whole four corners of the earth—namely, what was passing in the mind of an individual.

LORD ROUS observed, that what he had stated was not the question he meant to ask, but only the prelude to it; which was this—“Did you not ask who the Countess Oldi was?”—I do not recollect that I did: it might be.

By the EARL of ROSEBERRY.—Do you recollect the Princess's ever coming into Bergami's room, in order to attend Bergami, during his illness? To my knowledge, never.

By LORD REDESDALE.—Did you ever attend any other of the Princess's suite at Naples besides Bergami? Yes.

Who were they? I recollect attending upon many others; I remember attending Hieronymus; and I have attended her chamberlains also during their illnesses.

Was there not a garden or terrace attached to the house at Naples? There was.

Did you ever see the Princess and Bergami walking upon that terrace? Never.

Neither did you ever see the Princess and Bergami walking in the garden together at Genoa? Never.

Did you never see the Princess riding in the garden upon a jackass or donkey, and Bergami attending her? Never: I knew that the Princess did sometimes ride in the garden, but I never saw her.

By the EARL of LIVERPOOL.—I wish to know, whether, when the Princess introduced the Countess Oldi to you, she introduced her as Bergami's sister? No.

About what time did she introduce her to you? About the time of the Princess's departure for Paris.

Did not the witness, at the time he left her Royal Highness at Paris, know that the Countess Oldi was Bergami's sister? I did not.

By LORD DYNEVOR.—In what language did the Countess Oldi and the Princess converse? As far as I recollect, the Princess spoke some words in Italian; but whether the Countess could speak French or not, I do not know.

I think you have stated, that during the time you were at Genoa you dined with the Princess almost every day? Almost every day.

During that time did Bergami ever sit down to dinner? Never.

Did you dine every day with the Princess? I believe every day, excepting that I may now remark I was absent on one or two occasions only, of which one detained me two days.

By the EARL of HARROWBY.—Did you ever hear the Princess and the Countess Oldi converse together in French? I don't recollect ever hearing them.

Did you never hear the Countess Oldi speak French at all? I don't recollect if she always conversed in Italian.

And what kind of Italian did she speak? Very much that kind of Italian which is spoken in Lombardy.

Is that dialect generally spoken by persons of fashion and education? I have heard it spoken by persons of education and fashion, when conversing with each other; but almost all such persons have been capable of speaking the pure Italian.

Did you ever hear the Countess Oldi speak pure Italian? It would be very difficult, upon my recollection only, to say whether it was pure or not.

Was that impure Italian easily intelligible to a person who knew Italian from books only? Was a conversation sustained in that Lombard dialect or accent intelligible to one who was accustomed to pure Italian? I can only say, from recollection, that I did not find any difficulty in conversing with the Countess Oldi. I have no recollection beyond that.

Was that Italian easily intelligible to persons who had a very imperfect knowledge of Italian at all? That question I find it difficult to answer: and I may remark that I had very few opportunities of conversing with the Countess Oldi.

By LORD AUCKLAND.—Pray, Sir, did the language spoken by the Countess Oldi differ more from pure Italian than English spoken by a Scotch person of education and family differs from pure English? (A laugh) I find it equally difficult to answer that question.

By the LORD-CHANCELLOR.—Did

Bergami ever dine at the Queen's table when you have dined there? Never.

By LORD CALTHORPE.—Do you recollect the Princess's ever having expressed herself dissatisfied with the situation of her house at Genoa? I don't recollect her Royal Highness's having made use of any expression to that effect: but I do recollect her Royal Highness's going to look after a house at Genoa, which, at the moment, I understood she intended to take; but which she did not take.

Did you bear any reason assigned by her Royal Highness for wishing to change her residence? I recollect a reason being assigned, but whether by her Royal Highness or not I don't remember—that she wished to have a situation where there was more tranquillity. I don't recollect whether that wish came from her Royal Highness herself or not.

Was the situation of the house she then occupied so particularly subject to interruptions of any kind as that they became annoying? I am not aware that it was.

During the whole time you were in the service of her Royal Highness Bergami occupied the situation of a menial servant? He did.

Do you recollect at any time, or under any circumstances, her Royal Highness's conducting herself towards Bergami in a manner that you should consider at all inconsistent with the relations in which a Princess of Wales ought to stand to a menial servant? I must remark, in answer, that her Royal Highness's demeanour to all her servants was extremely affable and familiar. I should say at once that I never observed any difference in her manner towards Bergami and to the rest of the servants? I may perhaps be allowed to add, and to all the other principal servants.

I understand you then, to say, or rather to hint, that the degree of familiarity which her Royal Highness showed towards Bergami was fully to be accounted for by the kindness and condescension she generally showed to all her upper servants? I have never observed myself any difference in the degree of her kindness or familiarity to him in preference to that which she manifested to all the other principal servants.

At what period did you enter her Royal Highness's service? When she left England. In 1814? In August, 1814.

How long did you remain with her Royal Highness? Until June, 1815, which was a period of 10 months. My services and my salary did not cease in June, 1815.

Did you consider Bergami as an upper servant in her Royal Highness's suite? As an upper servant.

The LORD CHANCELLOR.—Did any of these principal servants whom you have recently mentioned dine at the Queen's table? None of them.

Mr. Brougham.—You have said that your salary did not cease in June, 1815. I wish to ask you whether your salary has ceased since? It has.

How long? Fifteen months exactly from the time I entered her Majesty's service:

Have you any pension since? None whatever.

The witness was directed to withdraw and

CHARLES MILLS, Esq. was called to the bar and sworn.

Mr. Denman.—I believe you generally reside at Rome? I do.

Did you reside there in the summer of 1817? I did.

Had you then the honour of seeing the Princess of Wales there? I called on her Royal Highness the day after her arrival.

Do you know how long she remained at Rome? I remained there myself about 22 days; therefore I cannot tell how long she remained afterwards.

You left Rome, then, before her Royal Highness? I did.

Had you the honour of her Royal Highness's acquaintance before that period? I had.

During those 12 days, were you repeatedly at her Royal Highness's house or hotel? I dined at the Casa Adropa most days with her Royal Highness, of the time that I remained in Rome.

With her Royal Highness? With her Royal Highness.

Can you inform the house whether at that time she was visited by persons of high rank? She was.

Be so good as to mention some of the personages of rank in Rome who were about the Queen, or in attendance upon her, at the time of which you speak? There were some of the Roman nobility, appointed by the Roman government, to attend the Princess at that time. I remember the Baroness Ancajini.

Was there also a guard of honour appointed to attend the Princess? There was a guard of honour appointed by the Roman government to attend upon her Royal Highness, and a box at the public places prepared for her, to witness the ceremonies, in the same manner as the other royal personages then resident in Rome.

The ladies of honour to whom you allude, then, attended the Princess? They did.

Have you ever had the honour of dining with the Princess? I had the honour frequently.

Did you see personages of rank and distinction then attending as guests upon the Princess? I don't want you to mention names in particular; I merely allude generally to the company then kept by her Royal Highness? I saw always the first company with the Princess. I remember seeing Lord Milworth there: the Abbe Taylor was her constant guest.

Did you see any of their Eminences (the Cardinals) at dinner there? I never saw any at dinner.

At other times, besides dinner, did they attend? They came frequently to the evening parties.

Was Bergami then her Royal Highness's Chamberlain? He was.

Did he, in that character, dine at her Royal Highness's table? He did.

Did you often see her Royal Highness and her Chamberlain Bergami together? Frequently.

Did you ever see the smallest impropriety of conduct between them? Never.

Does this answer apply to your observation of the Princess and Bergami, as well at Rome as at other places? Yes, certainly.

Do you recollect passing any time at Pesaro in the year 1819? I do.

Do you recollect on that occasion calling at the Princess's Villa at Pesaro? Yes, I do; I called there on my return from Venice.

How long did you remain there? About two days. The Princess was from home when I called first. On her Royal Highness's return home she sent a carriage for me, with one of her equerries and William Austin, to desire my attendance at the Villa on that evening.

And you went, I suppose? Yes, I went according to the invitation.

How long did you remain on that visit? I arrived at the house between seven and eight o'clock in the evening, stayed for supper, and after that returned to sleep at the inn.

Did you pay your respects to her Royal Highness on the following day? Yes, her Royal Highness sent her carriage with one of her equerries, to show me whatever was worth seeing in the neighbourhood of Pesaro.

Did you after seeing the country, wait on the Princess at the Villa? Yes, I did.

Did you then dine with her Royal Highness? Yes; I dined and spent the evening with the Princess; and after walking about the grounds with her Royal Highness, I wished to go to see the fair of Sinigaglia, that being the last day of the fair. I accordingly quitted her Royal Highness and went there.

Had you the honour of paying your respects to the Princess after she became Queen? Yes, I had.

When, and where? At Rome in the beginning of the year.

Had she then assumed the title and dignity of Queen of England? She had.

About what month was that? I think February 1820.

Had she two ladies of honour then appointed to attend her by the Roman Government? No, she had not.

Had she any guard of honour, or any of those marks of distinction paid her, which you saw when she was Princess of Wales? No.

Did, in point of fact, Roman and English persons of rank visit her Majesty then to pay their respects? Yes, they did.

Do you remember who they were? I can speak of their names as I saw them entered in the book.

(Evidence of what he saw in the book was objected to.)

Did you see any of those persons visit her Majesty? Speak of your own knowledge. I did not. I can only speak of their names as I saw them in the book kept for visitors.

Was it then known that the funeral of his late Majesty had taken place? I think it was.

Was Bergami chamberlain in 1820 as well as in 1819? He was.

Was there any difference in the appearance of her Majesty's household at the different periods to which you speak? I saw none.

Did you ever see any thing in the conduct of these parties (the Queen and Bergami) derogatory to the honour and dignity of the British empire, or likely to wound the moral feelings of the people of this country?—Never. (with peculiar emphasis)

Independent of her conduct towards Bergami, in which you say you saw not the slightest impropriety, did you in other respects, either in public or in private, see the Queen conduct herself in any way at which a just exception could by any body be taken?

The Attorney-General objected to this question, as being not only a leading question, but one entirely travelling out of the point of inquiry.

Mr. Deuman with much animation contended for the propriety of the question he had put. Did not the Bill, he asked, both in letter and spirit, arraign her Majesty's conduct in public and in private? Did it not describe it as being derogatory to the dignity of the Crown, and disgraceful to the moral feelings of the people of this country? Were not these the terms used to define her Majesty's conduct in the very preamble of the Bill? Here is then a man who has seen her Majesty's conduct in Italy at three different periods; who had had frequent opportunities of witnessing it; and who positively and distinctly, speaking from his own actual knowledge, negatives the assertion in the Bill. Was he then, while combatting the Bill, to be refused the benefit of so material and so proper a witness? (hear.)

The Attorney-General said he did not mean to restrict his Learned Friend from going into any inquiry which he deemed material—he only objected to his proceeding to question the witness in so leading and so general a manner.

Mr. Brougham denied that the question just put was a leading one. Her Majesty's conduct was generally impugned by the Bill, and he wanted to show that it was unjustly



impugned. This witness had competent means of forming an opinion.

The EARL of LIVERPOOL said he certainly saw no objection to the question being put, but he could not help suggesting to the Learned Counsel who put it, whether, if evidence on the one side of general conduct, without touching on the special charge, were admitted, it would not be open to the other side also to adduce evidence as to general conduct?

The LORD CHANCELLOR saw no legal objection to the question.

It was then put to the witness in these words:

Did you in other respects, either in public or in private, see the Queen conduct herself in any way at which a just exception could be taken? I never did.

The EARL of LIVERPOOL then repeated his observation, that, though not objecting to the question, he still thought that if answers to questions respecting general conduct were let in at one side, that line of examination would then be open to the other.

The LORD-CHANCELLOR said he did not apprehend this witness was asked as to general conduct in the larger sense, but merely what was his own opinion of conduct, upon his own observation of that conduct, on particular occasions. (*Hear.*)

Mr. DENMAN.—At all times, when you saw the Queen and Bergami together, did he treat her Majesty with that respect to which her exalted rank entitled her? I never saw him treat her Majesty otherwise than with the utmost respect.

You saw, then, no degrading familiarity between them? None whatever.

*Cross Examined by the ATTORNEY-GENERAL.*

Did Bergami dine at the table of her Majesty every time you dined there in Rome? Yes he did.

Where did he sit? In no particular place that I can recollect; I have seen him sit in various parts of the table.

I think I understood you to say that, besides sitting at her Majesty's table, you had seen him with her in other places: where? I have seen him in attendance upon her Royal Highness at the ceremony of the *Corpus Domini*.

Were they together at that ceremony? Bergami was in attendance upon her Royal Highness.

In what manner did you see him attending? I saw him attending as chamberlain.

Where was the Princess? Her Royal Highness was in a box prepared for her by the Roman government.

And where was Bergami then? He was standing behind the Princess.

Was he standing the whole time? I think so.

Were there any other of her Royal Highness's suite there? Several.

How many times do you recollect you dined with the Princess on the first occasion in Rome? On the first occasion I recollect dining with the Princess three or four times.

As many? Quite as many.

Besides the names of personages of distinction whom you have described as visiting the Princess in Rome in 1817, can you enumerate any other persons? Not particularly. I saw the ladies of honour in attendance generally, and many other of the Roman nobility; many Cardinals, I believe, visited her Royal Highness. One day, when coming down stairs, I met Cardinal Consalvi on the stairs, going up to her Royal Highness.

Do you remember the names of any other visitors of rank? I usually went to dinner, and came away without stopping for the evening parties, at which her Royal Highness usually was visited by the nobility. The Princess at that time lodged at an inn; she had no house of her own for her establishment.

When you say you saw other nobility there, English and Italian, am I to understand you as speaking from your own personal knowledge? Yes.

I thought you said you were not there at the evening parties? Not often; but I have been there once or twice.

State the persons you saw on the evenings you were there? I really cannot now recollect any more names than I have already mentioned.

In 1819 you visited Pesaro, you have stated, and that one of the equerries, with William Austin, called upon you; which of the equerries was that? Chevalier Vassali.

Did Bergami sup at her Royal Highness's table at Pesaro when you were invited there at that time? Yes.

Did he dine there on the following day when you did? He did.

What other persons do you recollect then dined there? I do not recollect any but the persons belonging to her Majesty's household.

Mention the names of the persons of the Queen's establishment whom you saw there? There was the Chevalier Vassali, Bergami, the Countess Oldi, Wm. Austin, and two others whom I did not know.

Was Louis Bergami there? I cannot say he was, for I am not sure that I am acquainted with his person.

Then whether he was one of the Queen's party when you were there you cannot say? I cannot.

Were the occasions you have mentioned, at Rome and at Pesaro, the only opportunities you had of seeing the Queen in Italy? Yes the only occasions.

*[Re-Examined by MR. DENMAN.]*

Had you the honour of knowing her Majesty on former occasions? I had.



By a Peer.—Did you feel any objection to sit down at the same table with Bergami? I cannot say that I did.

By a Peer.—Did you leave Rome in consequence of information respecting those proceedings against her Majesty? Not at all: I came over from Rome upon my own private affairs.

By the EARL of LIVERPOOL.—Can you name any English Lady who visited the Princess in 1817? I do not recollect; for at the time her Royal Highness came, there were few English Ladies there.

By the EARL of MANSFIELD.—You say that on the last occasion, at Rome, her Majesty had assumed the style and title of Queen of England. When she left Rome, do you know whether her passports were applied for in that name?—I do know it, from hearing it from persons.

The LORD CHANCELLOR interposed, and said that the way to put the question would be to ask if the witness knew any thing of an application for passports.

The EARL of MANSFIELD then asked.—Do you know of any application for passports for the Queen?—I know there were applications to the British consul.

Was it by the style and designation of Queen of England? Yes.

The Attorney-General hoped the witness would be asked how he knew this.

The LORD CHANCELLOR.—Witness, how do you know that passports were applied for in the name of the Queen of England?—Her Majesty told it to me.

The LORD CHANCELLOR said, that not being evidence, it must be struck out.

The LORD CHANCELLOR.—Did you know that Bergami had been a servant and waited at table before you saw him? I only knew it by common report.

This question and answer were also ordered to be struck out.

By VISCOUNT FALMOUTH.—Were you, on the occasions when you dined and supped with the Countess Oldi, introduced to her by her Majesty? Yes, my lord; I was introduced on the first occasion.

Did you make any observation upon her manners? Her manners appeared to me to be unobtrusive and natural.

Were they the manners of an Italian lady? I did not consider them otherwise at all.

Then did you consider the Italian she spoke to be pure? Yes, but with the accent which I have observed in all persons from Lombardy.

Then you did not consider the accent of Lombardy indicative of any vulgarity? I did not.

By LORD ELLENBOROUGH.—In what manner did the Countess of Oldi speak the Italian with her Lombard accent? was it grammatically correct? I am not able to answer critically; her language was good Italian; but I am not sufficiently versed in

Italian to pronounce upon the particular accents.

When were you introduced to the Countess of Oldi? In 1817, when the Queen arrived in Rome.

By EARL GREY.—I wish to ask Mr. Mills how long he has been in England? I arrived here in May last.

Was it to give evidence here? No; I came here previous to the commencement of the proceedings in Parliament upon this subject, and not in contemplation of them.

Was any application made to you for information respecting the conduct of her Majesty in Italy? Never.

The witness was then ordered to withdraw.

JOSEPH THEOLINE sworn.—Examined by MR. WILLIAMS.

Did you formerly hold the rank of Colonel on the staff of the Viceroy of Italy? I did.

Have you ever been placed on the staff of the French service since that period? I have been so placed.

Are you a Chevalier of the order of the Iron Crown of Italy, and a member of the French Legion of Honour? I am.

Have you a brother who holds the rank of General of Division in the French service?—I have.

Did you know Bergami when he served in a military capacity in General Pino's brigade? I did.

When did you know him first? At a time when he filled the function of quarter-master in the first regiment of Italian hussars.

In what year was that? It was about the conclusion of the year 1800, or the beginning of the year 1801.

Was your brother at that time the superior officer under whose command Bergami then served? He was: Bergami was in the brigade which my brother commanded; it was a brigade of cavalry, composed of two regiments; the first a regiment of guards, and the second of chasseurs.

Did you yourself serve in the capacity of aide-de camp to your brother? Yes, I held that situation.

What was the general conduct of Bergami at that time?

(Mr. Park objected to this question, on the ground that it did not go directly to affect the merits of the case, but the objection was overruled.)

The conduct of Bergami at that time was that of a non-commissioned officer who had nothing to reproach himself with; and, in short, the conduct of a good military man.

Did you ever observe him holding any intercourse with the General Galemberti? Certainly.

Were they of the same country? They came from the same part of Italy as I understood.

Did you ever observe them at the same

parties or suppers? I do not recollect; I believe not.

Did you continue acquainted with Bergami at that time, or was there any interval between the period to which you allude and your next meeting with him? A great deal of time intervened.

Did you ever see him, not at suppers, but at evening parties? I cannot recollect to have met him; but I well know that he frequented the House of General Galembergi.

Where and in what year was it that you met with Bergami a second time? It was on the frontiers of Spain, either in 1808 or in 1809, when Marshal St. Cyr commanded a division of the French army at that time entering the Spanish dominions.

In whose service or in what employment was Bergami at that time? He was engaged in the household of General Pino, and also attached to a division of the Italian army.

What was the treatment that he received from Gen. Pino? As far as I had the means of observation, I recollect that he was treated by Gen. Pino with much kindness, and entire confidence.

Did you yourself know Gen. Pino, and visit him subsequently? I visited him whenever the service made it incumbent on me to do so.

Did you ever see Bergami at any of those periods? Sometimes, not always.

Do you, of your own knowledge, know that Bergami sometimes dined at Gen. Pino's table? I cannot affirm that.

In what manner did Gen. Pino usually behave to him? He appeared to me to treat him on all occasions as an individual possessing his fullest confidence.

In what estimation was Bergami held by the other officers? He was very well liked, and considered as an honest man (*un honnête homme*.)

*Cross examined by Mr. PARK.*

Did you know Bergami when he was in prison at Lodi? I never heard of it.

Was he not in the situation of a menial or domestic servant in the household of General Pino? He was in the situation of a courier-special (*courier particulier*), and was intrusted with the management of the General's private affairs.

(To the interpreter.)—Does the word *particulier* signify private or confidential? It has different meanings and may signify both.

(To the witness.)—Was Bergami a courier particularly attached to General Pino's service? I understood so.

Did you never see him between the periods to which you have referred, the periods of 1800 and the year 1808? I did not.

At what time did you first see him? I have said already that I have no distinct recollection, but it certainly was about the period when General Pino's division was on its march towards Barcelona.

Cannot you recollect at what time of the year this was? It was, I believe, as winter was approaching.

Have you not any more distinct remembrance on that subject? I cannot speak precisely to the time, but it was at the beginning of winter.

On what particular occasion did you see him? The different parts of the division took different roads, and it was upon the route; I believe it was on our passing the river Luga.

Was he then in the dress of a courier? He was in ordinary clothes.

How long have you been in England?—About six weeks.

Was you ever in England previous to that time?—Never.

Have you been in London during the whole of that period? When I first arrived, I remained in London 20 days.

Where did you go afterwards?—I returned to Paris not being able to stay longer in England without leave from my General of Division, and the Minister of the War Department.

Did you pass through the town of Beauvais on your return?—Yes, I travelled with the courier who takes that route, and who goes regularly.

Did you ever know an individual named Rossi?—I recollect a sergent of that name.

Did he come from Lugano?—I knew a family of the name at that place.

Did you see any one of that family, when you passed on a late occasion through Beauvais?—No, but I saw him at Paris.

Was it there that you last saw him?—No, I believe it may have been previously; perhaps two or three months.

Had he any person with him at that time? No, he was alone.

Had you then heard of any tumult at Doyer? I had read an account of it in the public newspapers.

Did you communicate the facts to Rossi? I never spoke of it to him at all. I saw him but once, and our conversation did not last a quarter of an hour.

Who applied to you to come here?—*Le Reint d'Angleterre*.

By EARL CATHCART:—Was the regiment of hussars of which you have spoken commanded by your brother, at the time when you first met with Bergami, serving in the quality of quarter master? It was.

What are the grades inferior to the rank of quarter master?—The lowest is that of brigadier; then that of *maréchal de logis*; and then quarter-master, which however, sometimes signifies the same thing.

You can probably inform us whether the rank of *maréchal de logis* corresponds with the grade of sergeant in the infantry?—It does.

Did you ever understand Bergami to be General Pino's own servant? No; there is

a difference, in Italy, between the ordinary office of courier, and the same office when attached to personal rank; a person in the latter situation is not commonly regarded as a domestic servant.

Do you know precisely what the situation was which he filled? I know very little of it: I was myself in occasional attendance as a superior officer, and I cannot be supposed to have meddled with General Pino's private affairs.

Was Bergami attached to the public service of General Pino? I have already twice stated, that he was attached to his service as courier; but as I myself was not a member of General Pino's household, I could not concern myself so as to obtain any further knowledge.

The witness then withdrew.

**CARLO FORTI** was the next witness called. Being sworn, he was examined, through the interpretation of the *Marchese Spinetto*, by Mr. **BROUGHAM**.

Are you a Catholic or a Protestant? I am a Catholic.

Were you courier in the service of her Majesty? I was.

When did you enter the service? On her Majesty's departure from Milan.

Do you recollect whether that was in the year 1817? Yes, it was.

In whose service were you immediately before that? Before I entered the service of her Royal Highness, I was in the service of the Viceroy of Italy.

What were you in the Viceroy's service? I was head cabinet-courier.

You have said you entered the Princess's service at the time she was going away from Milan; where was she then going? She was going to Rome.

Did you apply to be taken into her service? I did.

For what purpose, or with what motive, did you make that application? Because, at that moment, I was out of service.

You have told us that the Princess was going to Rome: have you yourself any relations there? Yes; brothers.

Have you any other near relation there? Yes; the Duchess Tarlogna, the great banker's wife.

What relation is the Duchess to you? She is my aunt.

On the journey from Milan to Rome, in what carriage did the Princess travel? In a small English landaulet.

How many other carriages had her Majesty with her in that journey? Two more.

What sort of carriages were these two? One was a *bascatella*; the other a *caratella*.

What sort of a carriage was the *bascatella*? It was a carriage covered, with four seats inside.

Was the landaulet, of which you have spoken, an English carriage? It was.

Was it a different looking carriage from the *bascatella*? Yes, certainly.

Was it a carriage of a perfectly different appearance? Quite different.

Was it also perfectly different from the carriage you have called a *caratella*? It was.

Had her Majesty any other carriage but those three on the journey? No.

On that journey, in which of the three carriages did her Majesty herself travel? In the landaulet.

Had the landaulet glasses, as is usual with such carriages? Yes.

Had it wooden blinds? Yes, it had.

Had it any curtains? It had.

What sort of curtains? Silk.

Does the witness mean silk curtains that drew aside, or up and down, with springs? They were things which were pulled down by means of two strings that kept the curtains combined, and were lifted up by springs.

Do you remember her Royal Highness leaving Rome to go to Sinigaglia? I do.

Did her Royal Highness travel by night or day? By night.

Do you recollect where her Royal Highness rested on the road? I do.

Where did her Royal Highness wish to rest on the first day on the road? At Tricoli, where she arrived at 9 in the morning.

Where did her Royal Highness rest on the second day? At Rocchi, where she arrived at 11 in the morning.

At what time did she arrive at Sinigaglia? On the following day, at 11 o'clock.

Do you know a person of the name of Sacchi, or Sacchiui, who was in her Royal Highness's service? I know Sacchi.

Did he accompany her Royal Highness on the journey you have been speaking of? He did.

How did he travel on that journey? From Milan to Ancona on horseback; from Ancona to Loretto, and from Loretto to Rome, he set off, in the evening, a day before her Royal Highness, in the *caratella*, and I mounted myself on horseback, and accompanied the Queen into Rome.

Did you mount on horseback at Ancona or Loretto? At Loretto.

Now, when her Royal Highness left Rome for Sinigaglia, did Sacchi travel with her, and how did he travel? He travelled in the *caratella*, as before; and I on horseback, with the carriage.

How long before her Royal Highness did Sacchi set out on that journey in the *caratella*? Two hours before.

What was it his business to do on the journey, which rendered it necessary that he should go two hours before her Royal Highness? He had to order horses, and to pay for horses.

How did you travel yourself on that same journey? Always on horseback.

Did you accompany the carriage on horseback? Always.

Did you ever go before the carriage?

The EARL of DONOUGHMORE here observed, that he had not heard several of the preceding questions and answers.

The shorthand writer, Mr. Garney, in consequence, read from his notes a few of the preceding questions and answers.

Mr. Brougham continued.—When you came near any stage, did you go before her Royal Highness's carriage?—Yes, about half a mile before the end of a stage.

Do you mean to say, that at this half-mile, before the end of a stage, you always rode before her Royal Highness's carriage? I do.

Did Sacchi order horses for her Royal Highness in the way you have described, going before her in the cavalcade, during the whole of that journey from Rome to Sinigaglia?—He did: and he paid for them at the same time.

Did any other person ride as a courier for her Royal Highness on that journey? No.

If there had been any one else, must you have seen him? Certainly, because I was always there.

Did any other courier, or person on horseback, except yourself, accompany her Royal Highness on that journey? No one except myself.

Now, who travelled with her Royal Highness in the landaulet on that occasion? There were in it, besides her Royal Highness, the Countess of Oldi, Bergami, and Victorine.

On whose lap did Victorine generally sit during this journey? Very often she was on the knees of her Royal Highness.

Did you see her (Victorine) sometimes in the morning sitting on the Countess of Oldi's knees? Sometimes I did.

Where did the Countess of Oldi sit in the carriage? In the middle.

Do you mean in the middle, between the Baron and her Royal Highness? Her Royal Highness was on the right, the Baron on the left, and the Countess in the middle.

Do you recollect whether, during any part of the journey from Milan to Rome, or from Rome to Sinigaglia, the Countess of Oldi was in one of the other carriages? At Loretto the Countess fell ill, and went to the second carriage.

Whose place did she take at that time? She took the place of De Mont.

Where did De Mont go when the Countess of Oldi took her place? She took the place of the Countess of Oldi.

Do you mean that she took Oldi's place in the middle of the landaulet? I do.

Was it on the journey from Loretto to Rome, or from Rome to Sinigaglia, that this

accident happened? It was on the journey from Loretto to Rome.

After leaving Rome to go to Sinigaglia, did De Mont, or any other person except the Countess of Oldi and the Baron, ever travel in the carriage with her Royal Highness? There did not.

On that journey, was the Countess of Oldi always in the carriage, and always in the middle, as far as you saw? She was.

Did you always see her in that situation, in the morning, when her Majesty arrived any where? Morning, as well as evening, I saw her, for I was always there.

As courier to her Royal Highness, was it the practice to speak to her Royal Highness, or to any other person in the carriage, at the time you were travelling? When they arrived at the end of a stage, and that the carriage was stopped, then I knocked against the door of the carriage, and asked whether they wanted any thing.

While travelling in this way, in what situation were the windows of the carriage at night? had they glasses or blinds? In the front there was the glass, and, on the right and left sides, at all times during the night, they put up the blinds.

Could any air, though in a small quantity, enter through the Venetian blinds? There was the air that came in by the means of the openings in the blinds.

Do you remember, about the time that the change took place of the Countess Oldi going into the other carriage, that any accident took place? At Corino the horses ran away; this happened when we were going to Rome.

Do you recollect, on that occasion, any accident happening to a work bag? I do not.

Did that accident happen at Corino at the time that the Countess of Oldi changed her place in the carriage? Yes, it did.

Did you ever see the Baron kiss the Princess at any time on taking leave of her, or at any other time? No; I never saw him kiss the Princess. (The witness accompanied his answer by a serious shake of the head.)

Did you ever see the Baron take leave of the Princess on any occasion? Yes, I have.

What did the Baron do on taking leave of her Royal Highness? He kissed her hand, and nothing else.

Did you yourself, on taking leave of her Royal Highness, kiss her Royal Highness's hand in the same manner? I have.

Did the other members of her Royal Highness's suite do the same thing? Yes, the chamberlain; and it was done by all those gentlemen who came to visit her Royal Highness.

Were you in the practice of kissing the hand of the persons of rank whom you formerly served? I did so to the Vice-Queen, as well as to the Empress Josephine.

**Cross-examined by the Attorney-General.**

Are you still in the service of her Royal Highness? I am.

Did you attend her Royal Highness in the capacity of courier when her Royal Highness came to this country? I did.

When did you last see Bergami? The last time I saw him was at St. Omer's.

Did Bergami travel with her Majesty the Queen as far as St. Omer's? He did.

Do you know the wife of Bergami? Yes, I do.

Where does she live? At Milan.

I believe Bergami is called the Baron de la Francini? Yes, he is.

Is his wife styled the Baroness de la Francini? I never heard it.

Have you ever seen Bergami's wife in company with her Royal Highness? I have never seen her.

Whereabout does Bergami's wife reside—at Milan, or in the neighbourhood? She lives in Milan.

In what part of Milan? She lives near the gate of Ticcina; but I cannot describe the place very exactly.

Have you ever been at her house? I have.

What sort of a house is it where she lives? It is a neat house, that suits a private individual.

In what manner does the wife of Bergami live there? She lives as all other persons do.

In what manner? In the style of a private person.

I wish the witness would describe, more particularly, the style in which she lives? In truth, for my part, I have never been in her house, to inquire what she did, or did not.

Has she any servants? She has servants, and a waiting-maid. (*Cries of No! no! intimated that the answer was not correctly translated.*)

How many servants has she? She has a man-servant, and a maid, who performs the office of waiting-maid.

How long has she lived in the house where she now resides? I have always seen her there. I never saw her before I saw her there.

Does the witness know the name of the man-servant? I don't know, because I never attended to him.

How do you know that she has a man-servant? I have seen him in the house when I went to see her; but his name I don't know.

Then you have been in the house? I have just told you I have been once in her house.

When was that? How do you expect I should remember it? I have been there once, about a year ago.

Do you mean to say that you believe it to be about a year ago? I do.

Upon what occasion was it that you went to the house about a year ago? I carried a letter to her.

From whom? From her husband.

Where was Bergami then? At Pesaro.

Did you go from Pesaro to Milan for the purpose of delivering that letter? No.

For what purpose then did you go to Milan? On account of some business of her Royal Highness.

Did you go alone? Yes, alone.

How long were you at Milan that time? Two days.

Where did you go from Milan? To Pesaro.

Do you know any other person of the family of Bergami? There are certain other of his relations whom I know; there is his brother.

His brother Louis? Yes.

Is Louis the only one of his relations whom you know? No; I know his cousins.

What are their names? One is called Bernardo Valotti; the other is called Francisco Bergami Valotti.

Are those persons whose names you have mentioned the only relations of Bergami whom you know? There are others, but I do not know their names.

Are there any sisters of Bergami whom you know? I know his sisters; one is called Faustina Bergami.

Are there any other relations of Bergami whom you know? The others I do not know.

Have you seen any others of his relations? Have you seen the Countess Oldi? Yes.

She is Bergami's sister, is she not. Yes, she is his sister.

Where was it that you have seen the Countess Oldi? At the house of her Royal Highness.

Do you know any other of his relations? I do not recollect any others at present that were in the household of her Royal Highness.

Then I am to understand you that all the persons whose names you have enumerated were in the household of her Royal Highness? They were all once in it.

What situation did the Countess of Oldi fill? That of *dame d'honneur*.

What situation did Faustina fill? She kept an account of the linen.

In what situation was Louis Bergami? In that of equerry to her Royal Highness.

In what situation was Bernardo, whom you have stated to be Bergami's cousin. He was prefect of the palace.

What was Francisco? He was accountant; he kept her Royal Highness's accounts.

Having lived, as you state yourself to have lived, in the service of her Royal Highness for four years, will you say that there were no other relations of Bergami than those whom you have named in her Royal Highness's service? I know of no others.



Do you recollect Bergami's mother? Yes, I do.

Did she live in the house of her Royal Highness? She came once to pass a few days at the Villa Captivi.

You say a few days; how many days did she remain? She remained two months, more or less.

Then, by a few days you mean two months?

Mr. Brougham objected to this question. The witness had stated that Bergami's mother came to stay a few days at her Royal Highness's house; but it happened that she, like many other persons, came to stay a few days, but afterwards stayed longer than she first intended.

By desire of their Lordships the two last questions, and answers were read by the short-hand writer, after which the Attorney-General proceeded with another question.

Where did Bergami's mother live at other times? At Milan.

Where in Milan? In a house.

In what part of the town? I do not know.

When the mother of Bergami was at the Villa Captivi, where did she dine? She dined sometimes with her Royal Highness, and sometimes in a room by herself.

Where did Faustina dine? Always in her own room.

Do you mean to swear that Faustina always dined in her own room? I cannot swear that she always dined there; but I saw that she did not dine with the others.

Where did Louis Bergami dine? Sometimes he dined with her Royal Highness, sometimes he did not.

Do you know Faustina's husband, Martini; I do.

Where did he live? At Milan.

Did Martini at one time live at the Villa d'Este? I do not know; at that time I was not at the house.

You said that Bergami accompanied her Majesty to St. Omer's; did any other person of Bergami's family accompany her Majesty to St. Omer's? No.

Where did you leave the others? Some at Milan, some at Pesaro.

Now, you have told us of several journeys which you have taken with her Royal Highness, I will ask you first, who was on that journey from Milan to Rome? The Countess Oldi, the Baron Bergami, Mr. Hownam, the Chevalier Vassali, Louis Bergami, Mademoiselles Brunetto and De Mont, and little Victorine.

Who travelled in the caratella? Mr. William and the Chevalier Vassali.

Who in the landau? Mademoiselle De Mont, Brunetto, and Hieronimus.

How did Louis Bergami travel? Louis Bergami arrived at Rome one day before us, he set out first.

What carriage did he travel in? A caratella, a carriage with two seats.

Was that another of her Royal Highness's carriages? Yes, it was.

Now, when they went from Ancona to Rome, how many carriages accompanied her Royal Highness? Her own, and two more carriages.

How many when she went from Rome to Sinigaglia? Three carriages, including her own.

Who went in the bascatella? Mademoiselle, Brunetto, De Mont, and Hieronimus.

Who was in the caratella? Mr. William and Vassali.

Who in her Royal Highness's? Her Royal Highness, the Countess Oldi, the Baron Bergami, and Victorine.

How did Louis Bergami travel from Rome to Sinigaglia? He set out before us.

With whom? In a caratella by himself?

Then there were in all four carriages of her Royal Highness? There were.

Did they travel in that manner all the way from Rome to Sinigaglia? Yes.

What other couriers were there but yourself? No others; there was one after me; it was Sacchini.

The Attorney-General wished to know of the interpreter, whether the witness by "after me" meant "besides" me. The interpreter said the phrase had no such signification; it rather meant "under me." The witness being asked whether such was his meaning, said it was "under me." He and Sacchini were the two couriers.

Was it during the time of that journey very hot? Yes, very hot.

Was that the reason of their travelling by night? Her Royal Highness travelled by night to avoid the inconvenience of the hot weather.

In what order did her Royal Highness's suite travel from Rome? The carriage of her Royal Highness was first, the bascatella was second, and the caratella last.

Was Theodore Majochi on that journey? Yes.

Was Regti? Yes.

How did they travel? On the box of the bascatella.

Were there two servants in the service of her Royal Highness called Suleman and Polidoro? Yes.

Were they on that journey? Yes.

The Attorney-General said, that he should here beg leave to ask the interpreter whether *cortena* in Italian meant a blind that drew up and down, or a blind that might be drawn aside. The answer of the interpreter was not distinctly audible below the Bar.

CARLO FORTI:

Cross examination by the ATTORNEY-GENERAL, resumed.

How did Suleman and Polidoro travel on that journey? Suleman travelled on the box

(of the caratella, we think) and Follero came a day after, for he remained at Rome after we left it.

Now, on that journey from Rome to Sinigaglia, did you not go before her Royal Highness to order horses? No, Sacchini set out two hours first.

Will you swear that you did not go first? I remained with the caratella.

That is not an answer to my question; will you swear that you did not go forward to order horses? Yes, I will swear two hundred thousand times that I did not go forward to order the horses.

Who then ordered the horses? Sacchini, who set out in a caratella two hours before us.

Then he travelled in her Royal Highness's caratella? No.

How was it then that you said in your examination in chief that Sacchini had travelled in the caratella?

Mr. Brougham.—The witness said no such thing; he said that Sacchini travelled in a caratella, which was very different from saying that he travelled in the caratella.

What was the reason of Sacchini's travelling in a caratella? Because he was not fit to travel on horseback; for after he had travelled a stage or two on horseback, he always laboured much, and was chafed.

Then had he ever travelled any part of the way on horseback? Yes, from Milan to Ancona.

How long had you been at Rome before you set out for Sinigaglia? Two months.

Do you mean to say that this accident, which had happened two months before he set out for Sinigaglia, was the cause of his setting out for that place in a caratella? He set out from Milan to go to Rome, and before he had gone far, he was very much chafed; he then got into the caratella, and having desired me to conceal the circumstance from Bergami, I rode on with the carriages to Loretto, and from Loretto to Rome.

I know very well that he went from Rome to Milan in the caratella; but I now ask in what manner he journeyed from Rome to Sinigaglia? [We lost the answer to this question; owing to a temporary confusion which existed below the bar.]

Had you not been staying two months at Rome before you set out on the journey to Sinigaglia? Yes, two months at Rome, part of June, July, and part of August.

Do you mean to say that Sacchini laboured under the effect of the accident which you have described during all those two months.

Mr. Brougham.—He has said no such thing. He had merely mentioned a fact which proved that Sacchini was no great cavalier, and that he had been desirous of concealing that circumstance from the Baron, as it would have been injurious to Sacchini as a courier.

I will ask you then why Sacchini travelled in the caratella? Because he was not good to mount on horseback, as he soon got tired and was chafed.

I ask you, whether, as soon as Sacchini got tired and chafed, you did not go part of the way on horseback? From Rome to Sinigaglia.

How long was Sacchini in the service of her Royal Highness as a courier? Twelve or thirteen months at most.

Was Sacchini courier to her Majesty in her tour through Germany? He was, but at that time I was not.

Mr. Brougham. Then, what occurred during that tour can only be what the witness understands to have taken place; and therefore cannot form the subject of an examination.

Where did you reside at Rome? At the Hotel of Europe, opposite the hotel of the Spanish Ambassador.

Did you sleep there? Yes, I did.

How long were you at that hotel? Six days.

In what house did you afterwards sleep? I always slept at the house of her Royal Highness.

Do you mean to say that you slept there every night? Yes.

Did you never sleep at any other place? No.

Were you ever at Rome at any other time than when you were there with her Royal Highness? No.

Now, as that was the only time that you were ever at Rome, I ask you whether you did not sleep elsewhere for a considerable time during her Royal Highness's stay there? I always slept at her Royal Highness's house.

Were you not during that time confined in prison? I was not.

Nor at any other time when you were with her Royal Highness? When I was with her Royal Highness, never.

Was it before that period then that you were in prison?

Mr. Brougham objected to this question. His Learned Friend assumed that the witness had been in prison.

Was you ever in prison—in what way? I ask you were you ever in prison? Once I was arrested at Astoria (we think was the name of the place), for five days.

When was it? It was when I went to fetch the money from the banker, Torlonia. I had got to Astoria, and wanted horses. The postillions would not give me any, but began to ill-treat and revile me. I retaliated and fought with them. Then the postillions came, seven of them, against me with pitchforks. I drew out one of my pistols and fired it. At that time came up a courier whom I knew, a friend of mine, and held my arm as I was pulling the trigger, and thus received the fire himself. When he heard

that I was in prison he procured my release, by stating how the circumstance had occurred, and that I was in the right.

Was not one of the postillions killed? No; I only made a hole in him.

Did not the courier die? No; he was 40 days ill.

You visited Ronconelli when at Rome? Yes.

How far is Ronconelli from Rome? There are 12 miles from Rome to Frascati, and half a mile to Ronconelli from Frascati.

What sort of miles do you speak of; do you mean Roman miles? Roman miles.

Re-examined by Mr. BROUHAM.

Is not Astoria, the place at which this accident happened, the first stage from Rome? Yes, on the way to Pesaro.

You were going back to her Majesty? I was going to Pesaro.

Were you going to Pesaro then? Yes, I was.

Had you charge then of a large sum of money for her Royal Highness? I had charge of 15,000 dollars.

Did you say that the courier whom you hurt was a friend of yours? He is still my friend; he resides at Rome.

It was not at him you fired: No, it was not he that I wished to kill; it was one of the postillions I wished to shoot.

It was one of the seven who attacked you with pitchforks that you meant to shoot? Yes, it was; I might have killed three or four them, as I had two bullets in each pistol.

Were not these the pistols that you used to defend yourself and you charge on the road? I used them to defend myself, as there were always highwaymen on the road.

Examined by the PRESS.

By LORD ERSKINE.—Did you ever observe, during the whole time that you were in her Royal Highness's service, any thing immodest or indecent in her behaviour towards Bergami or any other person? Never: Bergami always spoke with much esteem when he spoke to her. (The interpreter added, that the word which he had translated "esteem" meant "respect.")

By LORD ELLENBOROUGH.—Were you travelling alone when this accident happened at Astoria? I was travelling to meet Bergami.

Do you know why you were released from prison so soon? The Secretary of State, who governed at Rome, saw what I was, and the gentleman in whose service the courier was saw it was a misfortune and accident, and exerted himself to procure my liberation.

Did the Princess of Wales write in your favour?

Mr. Deaman having objected to this as irregular, it was withdrawn.

By the EARL of LAUDERDALE.—Do you know the Countess of Old's husband? No.

By LORD PRUDHOE.—At what hour did the Princess of Wales arrive at Sinigaglia, on the journey from Rome? At 11 o'clock in the morning.

The witness was then ordered to withdraw, and a short pause ensued. Calls of "Flynn, Flynn," were heard from several parts of the house. After an interval of several minutes,

LIEUTENANT JOHN FLYNN, of the Royal Navy, sworn.

Examined by Mr. DANMAN.

Are you a Lieutenant of the Royal Navy of England? I am.

Are you now settled in Sicily? Yes, I am.

Did you see her Royal Highness the Princess of Wales at Messina in November, 1815? I did.

Did you hold any command on board any vessel at that time? I did.

What sort of a vessel was it? It was a gun-boat.

Did her Royal Highness make any application to you respecting a voyage? She did.

What was that application? It was to proceed with her on a voyage to Constantinople and other places.

Was a polacre hired for that purpose? Yes.

Who commanded that polacre? Her Majesty gave the command to me.

Did you continue in the command during the whole time that her Royal Highness was on board? I did, most assuredly.

Under the direction of her Royal Highness, or at your own discretion? By the order of her Royal Highness.

And at her expense? At her expense.

Was there any surgeon on board? When we got to Toulis, a surgeon was taken on board.

Is he now living? I believe, not; I have heard not.

Was it necessary to make any alteration at Toulis in the sleeping apartments? Yes; Bergami's was changed to the dining-room from the after-cabin, which was on the right hand as you looked forward.

Do you know the situation of the bedrooms that were occupied by her Royal Highness, and by Bergami, during the whole voyage? I do.

I wish to know whether, at any time, in the situation in which the beds of those two individuals were placed, it was possible for them to see one another while in bed? I say, no. (*emphatically*).

Did your duty lead you to attend her Royal Highness, and to see the arrangement of the apartments? I have sometimes been called for by her Royal Highness to know how the weather was.

From what place did she call to you? From her cabin.

Did she ever call you from any other place

In the night-time; Yes, when sleeping under a tent upon deck.

What was Gargiulo's situation on board the ship: He was Captain of the ship.

Was he acting Captain, or Master? I was acting Captain, by the order of her Majesty. All the orders from her Majesty were given to me, and by me to the master of the ship.

Did Gargiulo's duty call him to attend the bedrooms, or the person of her Royal Highness? No; most assuredly not.

Supposing her Royal Highness had to go down stairs for a necessary purpose, was he likely to know it?

The Solicitor-General objected to this question.

You understand this sort of occasion I allude to; was there any thing in his duty to make him acquainted with it?

The Solicitor-General contended that the proper question was, "what was Gargiulo's duty?"

Mr. Denman thought he had a right to put the question in the form which he had proposed.

The LORD CHANCELLOR was of opinion that the regular course would be to ask what was Gargiulo's duty on board the ship.

What was the duty of Gargiulo, or his station, on board the pelacre? He had to attend to the duty of the ship: it was his duty to attend to the men.

Did that duty call him to that part of the ship in which her Majesty was? Not at all times: a man could command the ship without being in the apartments of her Majesty at all times.

Was it his duty to attend her Majesty, unless an order was given him by you to do so? No.

Was he in the habit of coming into her Royal Highness's room of his own accord? He might have done it of his own accord; but he could not without receiving some orders from me.

Was it his duty to take orders from you? Yes.

You have mentioned a tent that was sometimes raised on the deck, how near was the steersman to it? About 3 or 4 feet.

Did your duty in the course of the night call you to the place where the steersman was? Most assuredly.

Where did you sleep? On the return from Jaffa, I slept on the deck, over the helm—I should say less than 5 feet.

From the place which the steersman occupied was it possible to hear what was said in the tent? Generally, I should think it might.

Describe what you mean by generally?—I should think that conversation between two persons, as loud as conversation usually is, might be heard.

Did you hear what was said under the tent? No, never.

Was it near enough for you to have heard things that passed? Yes.

Did the tent cover the whole of the deck; or was there a passage left? There was a passage on one side at night.

Were you in the habit of passing along that passage at night? Yes.

And others of the crew? Certainly.

Do you recollect a light being sometimes put under that tent, and being afterwards taken away? Yes it was taken away for the preservation of the ship and all on board.

Why was it taken away? There were pirates in the Archipelago, and on that account it was not safe to have lights upon deck.

Do you know of pirates being in those seas by having seen any? Yes.

Was the danger of having a light in the tent represented to her Royal Highness? It was.

Was it removed after that representation? It was.

Was there any communication between the interior of the tent and the cabin below? Yes.

What sort of communication was it? There was a ladder that went down to the dining room.

How was it kept at night, open or shut? It was kept open; the tent was closed, but the opening to the passage was kept clear.

Was the tub used by the Princess placed in the cabin where she slept? It was too large to be placed in the cabin.

In the course of the night has the Princess ever called to you from the tent? In manœuvring the ship at night I have sometimes disturbed the Princess's repose, and she has then called to me.

When you answered that call, did you open the tent? Sometimes, when I could not distinctly hear all the Princess had to say, I was obliged to open it.

Do you know where Bergami slept on board your vessel? On the return from Jaffa, I do not know where he slept.

Where did he sleep on the other voyage? On going out, in the dining-room.

Do you recollect the position of the Princess's cabin, with respect to that of the Countess Oldi? The cabin was divided into two divisions: that of the Princess was much larger than that of the Countess Oldi.

Was there any communication between them? There was a door and two sky-lights; two openings on deck.

Allow me to ask you if there was any gun on deck? Yes.

Did you ever see the Princess sitting on that gun with any person? No.

Did you ever see her sitting in the lap of any person on board that vessel?—No.

Did you ever see her with her arms round the neck of any person? No.

—Or Miss Agnes's portrait except perhaps the child Victoria? No.

During the whole time you had the management of this vessel, and the Princess was on board, did you see the slightest impropriety or indecency in her behaviour towards Bergami or towards any other person? No.

Do you remember Bergami's going to land at Terracina? Very well.

Did you see him take leave of the Princess? I did.

Describe what was done on that occasion? He kissed the Princess's hand on leaving the ship, which was done by all persons on taking leave.

How long have you been in the navy? Sixteen years.

You wear some orders: what are they? The orders of Merit and Fidelity of the King of Naples.

When did you obtain them? On the occasion of taking several privateers when serving in the Neapolitan navy.

Did you receive the King of England's permission to wear these orders? One I have.

Which is that? A third order.

*Cross-Examined by the SOLICITOR-GENERAL.*

How long were you on the voyage from Tunis to Jaffa, according to your recollection? I do not precisely remember.

I do not ask you to a day or two, or even a week, but about how long? I do not know the exact date, unless I may be allowed to look at my memoir: from two to three months.

As nearly as you can recollect, how long were you on the voyage from Jaffa to Syracuse? Nearly a month.

Do you mean to say that you were not more? We might be more, but I cannot say exactly.

Will you take upon yourself to say that you were not two months? I can tell if I look at my memorandum. (The witness referred to a paper.)

Are those your original memoranda? No; the originals are not here; they are at home.

Where? In Sicily.

Why did you not bring the originals? I thought a copy would be enough.

But why make a copy? I thought it consistent. I thought I might want them hereafter, and that it was not necessary to bring the originals.

You made a copy because you thought it might be wanted, but you did not think the originals would be wanted: is that so? Yes.

For what purpose was the copy to be wanted? That I might be able to answer my friends if they asked me as to any particular circumstances, or as to where I had been.

Why, would not the originals communicate

that? Yes, but I had private affairs in them.

Then you mean to say that these copies were made in Sicily? No, on my voyage on board a ship.

On-board the ship do you mean? The copies were made on a voyage I went from Messina to Syracuse.

Can you tell, without looking at these copies not made at the time, how long or nearly you were on the voyage from Jaffa to Syracuse? We might be more than a month; I cannot exactly say.

Will you undertake to say that you were not two months? It was from one to two months; I cannot swear exactly.

Was it nearer two months than one month? I should think nearer two, now I reflect upon it.

Will you take upon yourself to swear that you were not more than two months? I cannot take upon myself to swear that.

The witness was then ordered to withdraw, and

LORD ERSKINE, in a low tone of voice, objected to the mode of examination pursued by the Learned Counsel. If the witness were not allowed to refresh his recollection by his memoranda, it was unfair to tax his memory in the way attempted. All would probably be clear by reference to the paper in the hand of the witness.

The LORD-CHANCELLOR asked if the witness had offered to look at the paper?

The Solicitor-General observed that the memorandum offered by the witness was merely a copy of some previous entry in the log-book, and made during a subsequent voyage. He submitted, therefore, that it could not be produced.

LORD ERSKINE added that, if the witness were not allowed to refresh his memory, the counsel was bound to take it with its defects, but not to tax it if he had done.

The LORD-CHANCELLOR seemed to be of opinion that if the memorandum were not produced, the counsel had a right to tax the memory of the witness.

The EARL of LIVERPOOL explained, that as the memorandum had not been made at the time of the transaction, in his view it could not be employed by the witness for the purpose of refreshing his memory.

The MARQUIS of LANSDOWN remarked, that the question was not whether the memorandum should be received in evidence, but whether a copy of the original, which original he understood to have been made at the time, might be used by the witness to refresh his memory, as to date.

The EARL of HARROWBY did not think that the witness had yet stated that even the original was made at the time of the transactions to which it referred.

The LORD-CHANCELLOR read the following sentence from Phillips's *Law of Evidence*:—"To assist his memory, a wit-



near may use a written entry in a book, or a memorandum, or a copy or a memorandum, such entry and memorandum, having been made at the time when the fact occurred, or immediately afterwards." Therefore, if the witness swore that the original memorandum was made at the time, and that what he employed was an accurate copy of the original, it seemed to him that it might be used to refresh his memory.

**RAUL GREY** suggested that the witness should again be called in to be questioned as to the time when he made both the original memorandum and the copy he had brought with him.

The witness, Lieutenant Flynn, was again placed at the bar, and interrogated by the Lord-Chancellor.

Where did you make those original papers you spoke of?—The papers were made on board the vessel I commanded.

On what voyage?—In going from Messina to Catania.

Where did you make the copies of those originals? On board ship.

On the same voyage, on your way from Messina to Catania? I went round the island in a ship of my own.

Did you make the original minutes when you were on board the polacre with the Princess? The originals I did.

Did you make the copies on board the polacre with the Princess? No.

Where did you make the copies? When I went round Sicily in my own vessel.

Had you the originals with you at the time?—Yes; there were only a few lines of them; I did not copy the whole.

Are they faithful extracts of so much as they purport to be extracts of?—No. (*some confusion.*)

You recollect your original papers: are now what you call copies, copies of the whole of the originals?—Not of the whole of the transactions on board the polacre.

Of some parts? Of some parts; only of the dates when we sailed from different places.

And can you say on your oath that they are accurate copies, as far as you have made them, of part of the originals? Yes.

*The cross-examination by the Solicitor-General continued.*

Have you looked at your memorandum since you were out? No, I have not.

Now look at your memorandum, but do not read it aloud, and tell me how long you were on the voyage from Jaffa to Syracuse? We sailed from Jaffa on the 18th of July, and arrived at Syracuse on the 20th of August.

During the voyage from Tunis to Jaffa where did Bergami sleep? In the dining-room.

What, every night? To the best of my recollection he did.

How do you know that? Because I had frequent occasion to go to her Majesty, in the morning to pay my respects, and I saw him in bed.

Were these the only occasions on which you saw him in bed in the dining-room?—The only occasions.

Did her Majesty sleep below during the voyage from Tunis to Jaffa? I believe she did.

When you went to pay your respects to her Majesty, where was she? In her own room.

What, in her sleeping cabin? Yes.

In bed? On the sofa.

Dressed, or not? Dressed.

And Bergami, on those occasions, was in bed, in the dining room? He was in bed.

How many times in a week might you have seen him, on an average? I never particularised; but sometimes, when I have gone in the morning, he has said "good morning" when I passed.

What kind of bed or bedstead did he sleep upon? I believe it was an iron bedstead, but I cannot positively recollect.

Was it fixed? It was not a fixture, but lashed to the side of the vessel.

Do you mean to swear that from that bed the bed of the Princess when the door was open might not be seen? I should think not.

Now, then, it is only should think not. Did you never stand in such a position as to see? No.

Pray was it your duty to attend upon the Princess? No, it was not; but, when called for, I frequently went there.

You had no other business in the dining cabinet at night? No.

You had the command of the ship, and you did not go into the cabinet at night? I did not, not being sent for.

Not on the outward nor on the homeward voyage? On the homeward I have.

Often? Not often; such as going to dinner.

At night, I mean? Never without being called for.

Who used to call you into the dining cabinet at night? Some of the servants.

And, being so called, have you gone at different times? I have gone when called for; but I never went of my own accord.

And that happened frequently? Not very frequently.

Has it happened several times? I cannot specify the number of times, but it has happened more than once.

Did it happen twice, three times, or ten times? I cannot positively recollect the number of times.

Now, under this tent on the deck, there was a bed; was there also a sofa? There was a sofa and a bed.

Whose bed? I believe Mr. Austin's.

Who slept in it? I do not know.

Do you mean to swear that you do not know that the Princess slept in that bed? The Princess slept on the sofa, not on the bed.

Near that bed? Not very near.

How far off? As far as I am from that seat.

Three or four yards? We will say three yards.

Will you swear that there was an interval of three yards, or any thing like three yards, between the bed and the sofa? Between the extremity of both there was a great deal more.

But was there more than a yard between the nearest point of both? Yes, most assuredly, more than two yards.

Where did the Princess sleep? on the sofa? Yes.

How did you know that? Because I had occasion to see when I went in one night.

Is that the only reason you have for knowing it? Having seen her there, I conceived she always slept there.

Who slept on the bed? I do not know.

For what purpose was it put there? I have seen it used for the purpose of sitting upon it during the day.

Do you mean to swear that it was put there for people to sit on during the day? I saw it used for that purpose.

Do you mean that it was placed there for that purpose? I do not know any other purpose.

Did you never see Bergami in that bed? I never saw him in the bed; I have seen him upon it in the day-time.

But have you never seen him lie upon it in the day-time? No.

Do you mean to swear that you have never seen him lie upon it in the day-time? I do.

Had you never any curiosity to inquire where Bergami slept during the whole voyage from Jaffa to Syracuse? No, I had other duties to attend to, such as navigating the ship, to carry her Majesty to different places where she went.

Have you any doubt that Bergami slept in that bed in the tent during that voyage and the whole of it? I cannot say where he slept; I never went to inquire where he was, or what he did: I can only repeat that I never saw him in bed there.

I repeat the question. Have you any doubt that he slept in that bed every night on the voyage from Jaffa to Syracuse? I cannot state it.

Have you any doubt upon the subject? I repeat the question. I certainly must doubt whether he slept there. I do not know whether he slept there or not, but I never saw him there, and I do not know where he slept.

Do you mean to swear that you entertain doubts about his sleeping there? When I

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never saw him there; I have reason to doubt that he did sleep there.

Do you mean by that to say that you believe he did not sleep there? I believe he did not sleep there.

Where did he sleep? I do not know.

Did you ever see him sleep in the cabin on the voyage from Jaffa to Syracuse? I never went into the cabin whether he was there or not.

Did you ever see him during any part of that voyage sleeping in the cabin? I did not. I never went into the cabin to see whether he slept there or not.

Did you ever see him one single night sleeping in the cabin? I do not recollect.

Then you do not now mean to repeat that you believe that he did not sleep in the tent? I mean to repeat that I do not know where he did sleep.

Do you mean to have it believed that you did not believe that he slept in the tent? I believe he did not sleep in the tent.

What is your reason for believing that he did not sleep in the tent? Because, when I went to see her Majesty, I did not see any one there.

Was it light or dark? It was dark.—  
(Laughter.)

Of what country are you a native? I was born in England, but I am partly an Irishman.

Going in then only when it was dark, and not seeing him there in the dark, do you mean to say he was not there? The light from the binnacle was sufficient to give me an opportunity of seeing whether he was there or not; the light of the binnacle shone in at the place where I opened the tent.

Then you mean to swear that at that time Bergami was not in the bed? Yes.

Attend to the oath you have taken, and answer me whether upon the night when the Princess called you, and when there was a light from the binnacle, you will swear that Bergami was not upon the bed? I do swear it.

Was that the only occasion when you saw that bed when Bergami was not there? I have gone there frequently when called for, and have seen the bed on the same position, and he never was there.

You mean to swear that if he had been there you must have seen him? Yes, if he had been in the bed I must have seen him.

Do you remember the night of a storm off Candia? Yes.

Did the Princess go below? Yes.

Where did she sleep? I did not follow her down, but I believe she slept in the cabin belonging to Mr. Hownam.

Do you know that she did not sleep on the deck by the side of Mr. Hownam's cabin? She might have gone there afterwards. The management of the ship required me to stop

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on deck; I believe that next morning I saw her Majesty in Mr. Hownam's cabin.

Did you not go below and see her during the night? It does not strike me that I did. It was blowing very hard.

Do you know where Bergami slept on that night? I do not.

Where did you see Bergami in the morning? I saw him coming up the ladder on deck.

Do you mean to swear that during the whole night you did not see him lying on the deck below? I did not.

You had the whole command of the vessel? The ship was hired by her Majesty, and she gave me the command of it.

And during the whole month you never saw Bergami in bed any where? I saw him sitting on the bed, but I never saw him lying down.

Now at the helm you could not hear the conversation which passed unless it was in a certain tone of voice? Speaking as you now speak, I could hear it.

But when the Princess called you did not hear, and were obliged to lift up the tent? When it was blowing hard, the working of every material on board prevents one from hearing, and I could not distinctly hear what was said.

EARL GREY said that he was sorry to interrupt the cross-examination, but it was now considerably past the hour of adjournment, and it did not seem to be drawing to a close. (*Cries of adjourn, adjourn*)

The Solicitor General said that it would be extremely difficult for him to say how long he might yet require, and he should not like to be hurried.—(*Hear.*)

The house adjourned at a quarter past four.

## House of Lords.

TUESDAY, OCT. 10, 1830.

The LORD CHANCELLOR took his seat about 10 o'clock, after which prayers were read, and the House called over in the usual form.

### PROSECUTIONS FOR PERJURY.

EARL GROSVENOR wished, before the Counsel came to the bar, to call their Lordships' attention to a circumstance on which it appeared to him important that they should come to a speedy decision. Their Lordships would recollect that a discussion had taken place on the possibility of its being necessary to secure the means of prosecution for perjury, if unfortunately any case should occur in the proceeding respecting the Queen which called for such prosecution. There was a report on the table on the subject, and it was understood by their Lordships that nothing should take place on their parts

to prevent prosecutions for perjury. He wished, however, to address himself to the Noble and Learned Lord on the woulark, in order to ascertain whether it was still his opinion that there existed the power of prosecuting for perjury witnesses who might be examined before their Lordships. He understood that there were very considerable doubts respecting the decision to which he had concluded, which it was fit should be removed without delay; for nothing could be more important than that the question as to the power of prosecuting for any perjury which might be committed in the present proceedings should be settled. He thought the most proper mode of doing this would be, to pass a short act of parliament declaratory of that power.

The LORD CHANCELLOR declined giving an answer to the question. He did so, because in this stage of the proceedings it was the most extraordinary question he had ever heard. When the subject was formerly before the House, he took the liberty of saying, that if counsel undertook to prosecute a witness for perjury, that then would be the time to consider the means of effecting that object. But he now went further, and would tell the Noble Lord, that it was not becoming to anticipate the prosecuting for perjury in the present stage, and as a matter of probability, with reference to witnesses who had been examined. Upon that probability he could come to no opinion until the proceedings were brought to a conclusion. He would ask the Noble Lord, whether it was not, in a moral point of view, substantially punishing for perjury to hold out such a probability with respect to past evidence, which, for any thing he knew, might be confirmed by witnesses yet to be called?

EARL GROSVENOR had expressed his opinion that an occasion for prosecution might arise. The Noble and Learned Lord had charged him with improperly anticipating the prosecution of witnesses for perjury: but their Lordships would recollect that the subject had already been under consideration. The case had been stated, and the Noble and Learned Lord was asked whether in his opinion the witnesses could, or could not, be prosecuted for perjury. In consequence of what then passed, it was understood to be decided, in the first instance, that no impediment would be presented by the House to any prosecution. What he proposed, then, was only to give effect to their Lordships' intention. The Noble and Learned Lord had, however, talked as if the present were the first time the question had been agitated: but the Noble and Learned Lord had himself given his opinion on the subject of prosecuting. What he now proposed was merely that a Bill of the kind he had described should pass, in addition to the declaration that the House would not interpose its autho-

ally against any prosecution for perjury arising out of the proceedings respecting Her Majesty which might be instituted.

The LORD CHANCELLOR observed, that such a measure as that which the Noble Lord proposed, was a very different thing, taken prospectively with reference to witnesses who were to be called, and as applying to particular witnesses after they had been examined.

The EARL of LIVERPOOL was of opinion that, if the measure suggested by the Noble Lord could be entertained at all, it ought to have been brought forward previously to the examination of the witnesses.

#### WILLIAM CARRINGTON.

LORD MELVILLE stated, that circumstances had come to his knowledge respecting the evidence of one of the witnesses examined yesterday (Wm. Carrington), who had stated himself to have been a midshipman in the royal navy. It would be desirable, he apprehended, to put some further questions to that witness; but when that was done, he thought that the counsel on both sides should be present at the bar, that they might have the opportunity of hearing and commenting on what might pass. In the mean time, he wished that the counsel on both sides should be made aware of the intention of calling the witness.

EARL GREY thought that it would be well if the Noble Lord postponed asking the questions he wished to put to the witness, until after the case was gone through.

The EARL of LIVERPOOL observed, that the period for calling the witness was purely a consideration of convenience. The Counsel for the Bill might be asked whether they meant to call any evidence to rebut the statements of the witnesses examined for the defence. If they did, the evidence applying to this particular witness might be called along with the rest; or, if their Lordships thought it preferable, the witness himself might be called forthwith.

The EARL of LAUDERDALE had no knowledge of the nature of the questions which were intended to be put to the witness; but it was sufficient for him that there was the assurance of a Noble Lord that there were questions which he thought it important to put to the witness. Upon that assurance their Lordships ought to act. They had Counsel to re-examine witnesses upon a statement that they had important questions to put, and surely they would extend that confidence to a member of their own court which they had given to Counsel. He thought, therefore, that it must remain with the Noble Lord to propose calling the witness forthwith, or at any future time.

The EARL of DONOUGHMORE, without knowing the nature of the questions

which were to be asked, thought there could be no doubt on the question. This was not a subject proposed by Counsel on one side or the other. It was proposed by the Noble Lord, for the information of the Court. If the information was very important, he should say that the sooner the Court was put in possession of it the better.

LORD MELVILLE could only say, that he thought it highly expedient that Carrington should be examined as soon as possible. He would therefore move that he be called to the bar to-morrow.

Several Peers cried "To-day! to-day!" and the witness was ordered to attend this day.

Counsel were then called in, and the examination of witnesses was recommenced.

#### LIEUT. JNO. FLYNN's Cross examination by the SOLICITOR-GENERAL continued.

At what time did you arrive at Athens? On the 8th. of May, I believe (looking at a memorandum).

Did you touch either at Athens or Milan in your homeward voyage? No.

You mentioned yesterday that you made copies of your memorandum on the coast of Sicily? Yes.

How long is it since you made them? About 3 or 4 months.

How long previously to that was it that you had been in England? I was in England in 1817.

And had you been in England from 1817 till that period? No.

Was the memorandum written on shore or on board? On board.

Had you been on shore long before that? I went round the island from Syracuse to Augusta, and then to Messina and Catania.

Were you on board an Italian vessel? I do not remember.

I mean at the time you were speaking about the memorandum? No, I was not.

Of what country was the vessel? An English vessel.

What was her name? The *Lion*.

Will you allow me to look at the memorandum you hold in your hand? The witness handed the memorandum to the Solicitor-General.

You have told us you had the command of the polacre; who navigated her? I did.

Who gave orders to the sailors? Generally the captain, but the orders came from me.

Did you do any thing more than direct the ship to be steered to a certain place to which she was to go? I did not particularly direct her to be steered to any place; I only gave orders to the captain to execute the duty of the ship.

Did he not execute those duties as captain generally do, by directing his crew? I conceive he did.

Then in navigating the vessel had he not the whole management? He had not, be-

cause it was given to me by her Royal Highness.

You mean to say that you gave orders for navigating the vessel? Navigating and manœuvring a ship are different things.

I ask you whether you mean to say that you gave the orders to the crew?

Mr. Denman interposed, and, after the witness had withdrawn, observed, that the Solicitor-General had no right to assume the witness had said he gave orders. When a witness was asked whether he meant to say so and so, it was intended to be insinuated that he had said something like it; whereas the witness had said that the captain generally gave the orders.

Mr. Gurney, the short-hand writer, read over the notes of the evidence; and after some discussion took place between the Counsel, and a few observations from Lord Rosslyn, which we did not hear.

The LORD CHANCELLOR said, that it struck him the witness put a different construction on the terms navigating, management, and manœuvring the ship; and he conceived that the questions the witness had been asked had been put for the purpose of ascertaining what he meant by the words "navigating the ship."

The witness was then called in, and the cross-examination resumed.

What do you mean by saying that you navigated the ship? By navigating, I mean directing the course to be steered, and giving orders to the crew occasionally.

Then you did occasionally give orders for navigating the ship? Navigating includes manœuvring the sails as well as directing the course which should be steered.

Did you direct the manœuvring the ship? Sometimes I did, sometimes not.

Was it not in general done by Gargiulo? Sometimes he was not on deck, and I had occasion to do it myself.

Was it only when he was not on deck that you had occasion to do it, then? Sometimes I have done it also when he has been on deck.

Was it not generally done by the Captain? As to the working of the ship, I think he generally did it more than myself.

Do you usually write in Italian or in English? In Italian, sometimes.

Do you usually write in Italian or in English? In both.

You must perceive that this is no answer to my question. Do you usually write in Italian or English? In English, generally, Sir.

Was the account you kept of the proceedings of the ship in Italian or English? In Italian.

Was it written by yourself? The account was written by the clerk.

I mean that account to which you referred yesterday? By the clerk.

Was he an Italian or an Englishman? I don't know which he was.

Was he your servant? No.

How long were you on board the vessel? Several months.

In the polacre, do you mean? Yes.

Was the account of the ship kept in English or Italian? In Italian in the log-book.

Was it from the log-book you took those copies? Yes.

By whom was that log-book kept? By myself. It was a private memorandum made by myself.

Do you mean that the log-book was a private memorandum made by yourself? It was not exactly the log-book of the ship, but a private memorandum. I considered it a log for my own private purpose.

Then by whom was it kept—by yourself or the clerk? It was kept by myself and by my direction, but some of the entries were made by the clerk.

Was that the clerk to whom you have alluded just now? Yes.

Was he on board the vessel? Yes.

The whole voyage? Yes.

I ask you whether he was an Italian or an Englishman? An Italian.

Did you not tell me just now that you did not know what he was? I believe he was either an Italian or a Sicilian.

Did you not, in answer to a question just now, tell me that you did not know what countryman he was?—

Mr. Denman.—That question was not put. (Order! order!)

The Solicitor-General.—It was.

Mr. Denman.—If I am called to order by the house, I must address myself to your Lordships.

Mr. Gurney then read the former question and answer, and the last question was repeated.

Witness.—I do not know what he was, but I believe he was an Italian or Sicilian.

You say he wrote only in part; was the part which you wrote in Italian or in English? The part I wrote was in English.

Did you not tell me that the log was written in Italian? Yes.

Now, you say that part was written in Italian, and part in English? Part in both, to the best of my recollection.

The witness here became overpowered by the heat of the House, and fainted. He was then removed from the bar.

While he was out, several Peers complained of the oppressive state of the air in the house, and desired that all the windows should be thrown open.

The LORD-CHANCELLOR immediately ordered the windows to be thrown open, and said that he had heard with much surprise yesterday, that some of the officers of the House had said it was by his wish the windows were kept shut; now he had never ex-



pressed any such wish, but was most anxious to have the ventilation of the House kept up as much as possible.

The witness being recovered by the fresh air when removed out of the House, was brought back. Some Peers expressed a wish that he should be accommodated with a chair, but Mr. Denman said he did not require it, being then perfectly recovered.

Mr. Denman said that, before the cross-examination was resumed, the witness begged to have the answers he had given for the last few minutes before he left the bar read over to him.

Mr. Gurney accordingly proceeded to read the answers, beginning with that in which the witness said he wrote both in Italian and English, and down to the last question before he was taken from the bar.

**Cross-examination by the SOLICITOR-GENERAL resumed.**

Witness, you told us in a former part of your examination that Pasconani was your servant, and you told us in another part that he was not your servant: be so good as to tell me to which of these stories you adhere? I mean to adhere to both. I say he acted as both.

Do you mean, Sir, to say that he was your servant, and that he was not your servant? Is that your answer? I mean to say that he was so far my servant on board the ship that he took up and down stairs my cot; sometimes wrote for me; but that he was not kept in pay by me as a servant, for he was one of the sailors, one of the crew.

You, then, as you say, having kept one part of the log, and this Pasconani the other, may I ask which of you kept the greater part? I think I did myself; but it is impossible for me now to say, not having my eyes on the book, it not being here before me at the present moment. I may be mistaken, so I cannot say.

But the most of it, you are sure, was kept in English? There was some English and some Italian.

Then if you said a short time ago, and at first, that the whole of the book was Italian, you said an untruth.

Mr. Denman said he could not suffer his Learned Friend to cast this aspersion on the witness; it was unjust.

The Solicitor-General replied, that, as the question was objected to, he should not press it in that form; he would, therefore, withdraw the former question, and put this instead of it:—

Did you not say a part of the book was written in English? I told you so perhaps; but what I said at the moment was when I was so circumstanced by indisposition that I knew not exactly what I said.

Then do you mean now to say that part of the book was written in the Italian lan-

guage, and part in the English? Is that what you mean to say? Yes, it is.

Which is the greater part then, in the English or the Italian? I cannot say with very much accuracy.

Was there, however, a considerable part of it in English? I really cannot say; I think there was.

How much? I think as much in one as in the other.

Do you mean to say that the greater part was written in English? About the same in one, I think, as in the other.

I wish you, Sir, to look at that paper; (here the Solicitor-General handed the witness his paper); and, after looking at it, to tell me if the account it contains does not commence with your departure on the voyage with the Princess of Wales from Messina? The witness looked at the paper, and replied No, it does not commence with the departure but with the 5th of November, the day on which her Majesty arrived at Messina.

When, then, I ask you, did you sail from Messina? I believe it was on the 6th of January.

The Solicitor-General was then about to read the paper, when

Mr. Denman objected to its remaining in his Learned Friend's hands.

The witness was ordered to withdraw.

Mr. Brougham, in support of the objection said, that the common use of a memorandum in a court of justice was, for a witness, by referring to it, to refresh his recollection from the contents. But his Learned Friend (the Solicitor-General), instead of suffering the witness to do that which it was the proper and ordinary course to let him do, kept the document himself, and proceeded, *seriatim*, to put questions to the witness from the contents of that paper. Such a course was most assuredly irregular, and in direct contravention of the rule laid down by their Lordships on a former occasion, where a paper was produced.

The Solicitor-General denied that this was in any degree a similar case to that in which their Lordships had laid down the rule referred to by his Learned Friend. He also denied that he was questioning the witness, in the manner objected to, out of this document. He certainly looked into it, as he believed he was entitled to do; while the witness perused it in his hand. He had certainly a strict right to make use of it in this way.

Mr. Brougham said, certainly not, after their Lordships had laid down a contrary rule on a former occasion, and decided that a different manner should be observed.

The Solicitor-General said, that his Learned Friend was evidently blending together two different and distinct things. He was confounding the form of putting a paper as evidence, and merely using it to refresh a witness's memory.

The LORD CHANCELLOR said, that

it was a very different thing to say that a paper should be put in as evidence, and that it should only be referred to for the purpose of refreshing a witness's memory. He thought it perfectly clear and incontrovertible that while a witness referred to a paper to refresh his memory, it was quite competent for the counsel who was conducting the examination also to look over the paper used by the witness.

Mr. Denman said, that his objection was not to his Learned Friend's glancing over the paper as the witness referred to it, but taking it altogether out of his hand, and using it for quite a different purpose than refreshing the witness's memory, the only thing for which it was produced.

The Solicitor-General said, the only reason he had for taking the paper out of the witness's hand was because Mr. Gurney (the short-hand writer) was situated between him and the witness, and therefore he could not read it at such a distance. If the witness came next to him, then there would be no occasion to take the paper out of his hands.

The EARL of LAUDERDALE said, the House ought to consider, at first, whether they could receive this paper as evidence, if it were offered to them as such. He had some doubts upon that point. According to the statement of the witness, this paper was partly written by himself, and partly by another, who was said to be a clerk. If the latter part were not read over at the time by the witness, and believed by him, then, to be the correct account of what it purported to be, how could they admit the contents of it in evidence?

LORD COLVILLE expressed a wish that the witness, on being recalled, should say what log book it was he had been referring to: or whether two log-books were kept—one for the ship, and the other for the witnesses own use. The regular book always remained in the ship, for the use of the owners.

After a few words from the MARQUIS of LANSDOWN, which were inaudible below the bar.

The LORD CHANCELLOR begged to restate the general rule of evidence which he had before read, and which was to be found in Phillips's Book of Evidence. It was a general rule that a memorandum, to be efficacious, according to the rules of evidence, must be shown to have been taken at the time of the occurrence of the fact to which it alludes, by the person who is speaking of it, or else by some other person, under his examination and his inspection, so as to check any incorrectness.

LORD REDESDALE said, the witness must have either written the matter himself, or seen it correctly written by another.

The witness was again brought to the

bar, and his cross-examination renewed by the Solicitor-General.

Mr. Flynn, I wish you to produce the paper you were referring to.

(As the witness withdrew from the bar on the last occasion, he carried the paper away with him.)

Mr. Denman. I advise the witness not to give it to my Learned Friend.

The LORD CHANCELLOR. Mr. Denman said the paper to which the witness is referring must be so placed as that it will be in the eye of the Counsel and the witness at the same time: that I take to be the rule.

Mr. Denman. To that, my Lord, I can have no objection; but it is a very different thing for my Learned Friend to take it out of the hands of the witness, who has it for the purpose of reference.

The witness then placed the paper on the bar before him, so as that the Solicitor-General could refer to it.

The cross-examination was then pursued. What is the first entry in that book? It is the 5th of December.

At what place? At Messina.

In what language is that entry made? In Italian.

What next? Messina.

What language? Italian.

What next? The next entry is the 16th.

At what place is that? At St. Vann's, near Calabria.

Italian too? Yes.

What next? The 4th of January.

Italian? Yes.

What next? The 6th of January.

Where? The next port.

What language? Italian.

What next? On board the Clorinda.

What language? The Italian.

What is the next? The 29th January.

Where? At Syracuse.

What language? Italian.

What next? St. Mark.

Italian? Yes.

What next? On board the polacre.

Italian? Yes.

What next? The 8d of March.

In Italian? Yes.

And the next? Yes, in Italian also; and the subsequent ones, on the 12th April, on the 17th at Saldonana, and on the 19th.

Look at the paper, I beg of you, and see if you can discover a single entry in it, during the whole of that voyage, in the English language? No; there is not.

Does that paper come down to the return to Messina? Yes, it does.

And every entry, from beginning to end, is Italian? Yes, in this paper.

Now, I ask you to look at that paper, and see if you can swear whether any part of it is in your own hand writing? No, I cannot say it is.

Were you on board the *Clorinde*? Yes, I was.

Whose handwriting then is this paper? The clerk's.

The clerk Pasconani? Yes.

Was not Pasconani the confectioner of her Royal Highness? No, not the Pasconani that I mean. I allude to one of the crew. The Pasconani I allude to was one of the crew.

Was he a sailor in the ship? He was.

Do you mean to say that the Pasconani who wrote with you was on board the British ship the *Lion* lately? Yes, I do: he went down from Catania to Messina, where he was discharged.

What became of the polacre in the interval between the long voyage and the time of which you speak? I left the polacre at Genoa, and she went on the voyage to Naples.

Were the crew on board? No, not the whole of the crew, for Pasconani, and another who attended me, went with me.

Did you not tell us yesterday that the paper was in your own hand-writing? I do not remember, but I did not recollect at the moment.

Now, however, you say no part of it is in your own hand-writing? No.

In whose hand-writing is it? Schiavini's.

The Solicitor-General said that he should not ask this witness another question.

*Re-Examined by Mr. DENMAN.*

How long have you lived in Sicily? For 6 years.

Are you in the habit of speaking there English or Italian? Italian in general.

Were you then as familiar with the Italian when you went the voyage, as you are now? Yes perfectly familiar; indeed more so.

Did you know the place of which Pasconani was a native? No, not exactly.

Did he speak Italian? Yes, he did.

Did Pasconani make a copy of your log-book? Yes.

Are you a Lieutenant in the Royal navy of this country? Yes, I am.

Are you on half pay? Yes, I am.

Have you ever been examined respecting the conduct of her Royal Highness in that polacre during the voyage? No.

If you had had any notice that the log-book was necessary to be produced here, could you have brought it? Yes, I could.

Who made the copy from the log-book? Pasconani.

You say that this paper was written by Schiavini? Yes.

When did he write it? A few days ago.

From what did he write it? From the paper which I had in my hand-writing and Pasconani's. It was written from my dictation.

Now Sir, will you have the goodness to carry back your recollection to the arrival at

Jaffa. You say, from Jaffa to Syracuse the Princess slept in the tent? Yes.

Had you ever occasion to pass through the room where Bergami slept on-board the polacre? Yes, I had.

In what manner? I always, or generally went up the ladder, after the Princess got up.

Was the tent a single or a double one? It was a single one.

Do you recollect the breadth of the vessel, from beam to beam? Yes from 19 to 20 feet.

Counsel then said they had no further questions to ask the witness.

The Solicitor-General then begged that, before the witness was ordered to withdraw, he should be ordered to deposit the paper he had with the clerk of the house.

Mr. Denman objected to this application, and said that he was entitled to see the paper before any thing was done with it; he had no copy of it, nor did he ever see it until now.

The Attorney-General said the paper ought to be deposited, whether his Learned Friend saw it or not.

Mr. Denman hoped no insinuation was intended that he had seen this paper before this day at the bar. If such were attempted, he must repel it in the manner it deserved.

Cries of "Order" from the House.

Mr. Brougham hoped that, if their Lordships suffered these insinuations to be sung out at one side, they would in justice allow them to be repelled on the other.

The EARL of LAUDERDALE said that counsel must abide by the decision of the House, and not provoke unnecessary remarks.

EARL GREY said that it was the duty of their Lordships to abstain from replying to any extraneous remarks made by counsel at either side; but, when counsel appeared to them to exceed their line of duty, to interpose and stop the extraneous remarks, but not to do so by cries of "Order."—(Hear.)

The LORD CHANCELLOR reminded their Lordships that the question immediately before them was, as respected the legal reception of the evidence pointed to, in the question just put.

Mr. Denman said, that he had never proposed that the document in question should be produced in part of evidence as to the affirmative of the question propounded to the witness; and he was therefore in some surprise at the course pursued on the other side.

*Examined by Lord KINGSTON.*

What was the office that you held at the time? I was in the capacity of a naval officer.

Did you attend as a naval officer belonging to the polacre? I did.

it was a very different thing to say that a paper should be put in as evidence, and that it should only be referred to for the purpose of refreshing a witness's memory. He thought it perfectly clear and incontrovertible that while a witness referred to a paper to refresh his memory, it was quite competent for the counsel who was conducting the examination also to look over the paper used by the witness.

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The cross-examination was then pursued. What is the first entry in that book? It is the 5th of December.

At what place? At Messina.

In what language is that entry made? In Italian.

What next? Messina.

What language? Italian.

What next? The next entry is the 16th.

At what place is that? At St. Vanni's, near Calabria.

Italian too? Yes.

What next? The 4th of January.

Italian? Yes.

What next? The 6th of January.

Where? The next port.

What language? Italian.

What next? On board the *Clorinda*.

What language? The Italian.

What is the next? The 29th January.

Where? At Syracuse.

What language? Italian.

What next? St. Mark.

Italian? Yes.

What next? On board the polacre.

Italian? Yes.

What next? The 3d of March.

In Italian? Yes.

And the next? Yes, in Italian also; and the subsequent ones, on the 18th April, on the 17th at Saldonana, and on the 19th.

Look at the paper, I beg of you, and see if you can discover a single entry in it, during the whole of that voyage, in the English language? No, there is not.

Does that paper come down to the return to Messina? Yes, it does.

And every entry, from beginning to end, is Italian? Yes, in this paper.

Now, I ask you to look at that paper, and see if you can swear whether any part of it is in your own hand writing? No, I cannot say it is.

Were you on board the *Clorinde*? Yes, I was.

Whose handwriting then is this paper? The clerk's.

The clerk Pasconani? Yes.

Was not Pasconani the confessor of her Royal Highness? No, not the Pasconani that I mean. I allude to one of the crew. The Pasconani I allude to was one of the crew.

Was he a sailor in the ship? He was.

Do you mean to say that the Pasconani who wrote with you was on board the British ship the *Lion* lately? Yes, I do: he went down from Catania to Messina, where he was discharged.

What became of the polacre in the interval between the long voyage and the time of which you speak? I left the polacre at Genoa, and she went on the voyage to Naples.

Were the crew on board? No, not the whole of the crew, for Pasconani, and another who attended me, went with me.

Did you not tell us yesterday that the paper was in your own hand-writing? I do not remember, but I did not recollect at the moment.

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*Re-Examined by Mr. DENMAN.*

How long have you lived in Sicily? For 6 years.

Are you in the habit of speaking there English or Italian? Italian in general.

Were you then as familiar with the Italian when you went the voyage, as you are now? Yes perfectly familiar; indeed more so.

Did you know the place of which Pasconani was a native? No, not exactly.

Did he speak Italian? Yes, he did.

Did Pasconani make a copy of your log-book? Yes.

Are you a Lieutenant in the Royal navy of this country? Yes, I am.

Are you on half pay? Yes, I am.

Have you ever been examined respecting the conduct of her Royal Highness in that polacre during the voyage? No.

If you had had any notice that the log-book was necessary to be produced here, could you have brought it? Yes, I could.

Who made the copy from the log-book? Pasconani.

You say that this paper was written by Schiavini? Yes.

When did he write it? A few days ago.

From what did he write it? From the paper which I had in my hand-writing and Pasconani's. It was written from my dictation.

Now, Sir, will you have the goodness to carry back your recollection to the arrival at

Jaffa. You say, from Jaffa to Syracuse the Princess slept in the tent? Yes.

Had you ever occasion to pass through the room where Bergami slept on-board the polacre? Yes, I had.

In what manner? I always, or generally went up the ladder, after the Princess got up.

Was the tent a single or a double one? It was a single one.

Do you recollect the breadth of the vessel, from beam to beam? Yes from 19 to 20 feet.

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The Solicitor-General then begged that, before the witness was ordered to withdraw, he should be ordered to deposit the paper he had with the clerk of the house.

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*Examined by LORD KINGSTON.*

What was the office that you held at the time? I was in the capacity of a naval officer.

Did you attend as a naval officer belonging to the polacre? I did.



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After a few words from the MARQUIS of LANSDOWN, which were inaudible below the bar.

The LORD CHANCELLOR begged to restate the general rule of evidence which he had before read, and which was to be found in Phillips's Book of Evidence. It was a general rule that a memorandum, to be efficacious, according to the rules of evidence, must be shown to have been taken at the time of the occurrence of the fact to which it alludes, by the person who is speaking of it, or else by some other person, under his examination and his inspection, so as to check any incorrectness.

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What next? On board the Clorinda.

What language? The Italian.

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Italian? Yes.

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And the next? Yes, in Italian also; and the subsequent ones, on the 12th April, on the 17th at Saldonana, and on the 19th.

Look at the paper, I beg of you, and see if you can discover a single entry in it; during the whole of that voyage, in the English language? No; there is not.

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Did he speak Italian? Yes, he did.

Did Pasconani make a copy of your log-book? Yes.

Are you a Lieutenant in the Royal navy of this country? Yes, I am.

Are you on half pay? Yes, I am.

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In what manner? I always, or generally went up the ladder, after the Princess got up.

Was the tent a single or a double one? It was a single one.

Do you recollect the breadth of the vessel, from beam to beam? Yes from 19 to 20 feet.

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*Examined by Lord KINGSTON.*

What was the office that you held at the time? I was in the capacity of a naval officer.

Did you attend as a naval officer belonging to the polacre? I did.

How were the cabins situated with regard to each other? There was a communication between the different cabins.

Was there any complete separation between that cabin and the other cabins on board the vessel? I recollect that there were particular modes of communication.

How was the bathing-tub situated? It was not in the cabin which I have before named.

Where was the bathing-tub of her Royal Highness usually placed, or the bathing-tub used generally at sea? I can remember that there was a machine used for the purpose of bathing; it was ordinarily kept in that part of the vessel in which it was found most convenient to keep a machine of that kind.

In what part of the vessel was the bathing-tub usually kept? I cannot say in what part of the vessel it was usually kept.

At what part of the deck of the vessel did the binnacle stand? In the usual place, on the quarter deck.

What was the size of the tub to which you allude; I cannot easily, at present, attempt to state its dimensions.

How were you yourself situated when you made your first observations on that subject? I was sometimes in an adjoining cabin, or in a part of the vessel hard-by.

Could you, in the situation in which you were placed, observe what passed in the cabin occupied by her Royal Highness? I might sometimes perceive what was there passing.

Did you ever hear what the Princess of Wales said, at any time during the period which you mention? I had never means of much accommodation; but I may occasionally have heard her Royal Highness in conversation in her cabin.

Had you any means of seeing what usually took place in the tent of which her Royal Highness made use? I might, as I occasionally walked the deck—I might possibly have the opportunity of taking a view of the interior of the tent.

Had you, Sir, at all times, whilst engaged in your official capacity as a naval officer—had you, I say, at all times, an opportunity of making observations as to what might be passing in the tent? It depended, in some degree, on the wind; I might occasionally look into it.

Did you hear, or had you the means of hearing often, what her Royal Highness might say to any person? I might occasionally hear the conversation of her Royal Highness.

Could you, in any situation in which you were placed on board the polacre vessel, hear her Royal Highness conversing, in the tent to which you have alluded, with any other person? I think that I can remember hearing her Royal Highness sometimes in conversation with other persons.

Did you ever hear her Royal Highness in conversation with any particular individual? I may have heard her certainly, in various conversations.

With whom? With different individuals, whose names I cannot instantly recollect.

Did you ever, by accident, see the Baron Bergami, or a person known by the name of Bergami, in the tent of the Princess of Wales? I may have seen him sometimes in the tent of her Royal Highness.

Did you ever, on any occasion, or evening, during the course of the voyage on which the polacre was employed, ever see a light in the tent or binnacle? Certainly; I sometimes saw a light in the binnacle.

Do you recollect observing, at any time, that a light was conveyed from the binnacle to the tent? I recollect the circumstance of a light being so removed; but it was not during the night, but in the morning part of the day.

Do you recollect any circumstance of this kind taking place any night, that you were on board the polacre, or vessel in which her Royal Highness sailed? I cannot assert that I do.

By the EARL of DONOUGHMORE.—Have you already conversed much with different individuals on this subject? I have talked with many on the subject.

Have you been in the habit of taking notes of remarkable transactions, or were the memoranda from which you have given us extracts made in consequence of those incidents that you have narrated? They were so made.

Had you no particular object in taking those notes? They were taken at the suggestion of an interest which I then felt on the subject. I had previously been accustomed to take notes for my own use on remarkable occasions.

Had you no other object that you can now define? My notes were intended for my own private use.

Were the memoranda from which you have made extracts taken at the time when the occurrences to which they refer, happened? I believe they were, but they were originally designed for my own private use.

Where did you begin first to take them, or in what part of Europe? I first adopted the practice with mercantile views; and I think that was in Sicily.

Why did you begin to make written memoranda in Sicily? I made them for the use of my private friends in the first instance, and I continued the practice.

In what part of Sicily did this first occur? At Messina.

What was your immediate motive? I have already stated that I first took notes with a view to the gratification of my private friends, and in order to assist my own memory on occasions that might subsequently present themselves.



How long have you held the commission of a Lieutenant in his Majesty's navy? About 11 years.

How may you have been employed? In active service, or as regards active service in the royal navy, during those 11 years? In various ways.

Had you no particular employment in Italy during that period? I had, at one period of the time, which has been mentioned, some business to attend to, intrusted to me by the Neapolitan government.

Can you state or explain to us the general nature of that business? I recollect that I was intrusted with a mission to the island of Corsica, and that the principal object of it was to inquire into the conduct of Murat, ex-King of Naples.

How did you denominate that mission at that time? I then considered it as a secret excursion; I had sacrificed myself four days and nights, on the occasion of my being ordered to proceed to Corfu, and to separate myself from the command of Captain Briggs. I was then introduced to her Majesty, with a view to the object which I have referred to, and was sent on a secret excursion to Corsica.

You had previously, I believe, been in the employment of her Royal Highness at Rome? I had been.

Were you, in point of fact, the commander of the polacre, or vessel, in which her Royal Highness sailed to any port in Africa or Asia? I certainly had some control over the crew.

Was it an entire control? I apprehend that it may have been sometimes an entire control.

Do you mean over the passengers as well as the crew? Of course.

Was the vessel at all under the control of, or engaged by, the Princess of Wales? Certainly.

Who exercised the ordinary control? The captain.

Was the vessel considered as the dwelling-place or palace of the Princess, or as a mere vessel of conveyance? I looked upon it as her own.

Was the tent so raised upon the deck as to appear intended not to incommode her Royal Highness in any way? I understood that her Royal Highness was not to be incommoded.

Never to be incommoded? Never, except when the ship required it.

Were you directed to take all possible pains not to give or create any interruption to her Royal Highness at any time? I had a general direction of that nature.

I mean no personal offence, but what may have been your remuneration for the services that you have rendered to her Royal Highness? I scarcely understand the question.

I again say that I have no intention of giving personal offence; I wish only to know

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what consideration may have been received? I know of no consideration of the kind, or on the terms which seem to be alluded to.

Did you make any arrangements for the Princess of Wales at Tunis, or receive any sum of money from her there? I did; and I received 200 dollars.

What was your motive or inducement for receiving that sum of 200 dollars? I was informed that I should give offence by declining to accept it; I was in the first instance disposed to reject it.

Have you subsequently accepted pay or reward of any kind from her Royal Highness? Yes, I have received the same sum in amount for three years successively, making altogether 600 dollars.

Where was it that you received the second sum of 200 dollars from her Royal Highness? At Genoa.

State the times as well as places at which you have received these different sums of money? At Tunis, at Genoa, and at St. Jean d'Acre; I cannot remember the dates.

Do you expect any future reward from your royal mistress? I do not.

Are you in her service at present? I am not.

In what way did you come here as a witness? I presented myself as a witness in consequence of the knowledge which I felt myself in possession of as to the voyage to Africa and the East, which has been alluded to; I mean her Majesty's voyage from Italy.

You seem to have an accurate recollection of many circumstances; but, at the same time, that recollection is more particular with regard to what occurred on the voyage outwards than on the return? I can only say that I had then many opportunities of seeing what took place; of seeing Bergami; and I can also speak to the fact of having dined in company with him sometimes on the voyage outwards.

You have said, that on the passage out, Bergami slept in the dining-room? Yes, I saw him there.

Why were you not able to speak of the sleeping-place of that person in the voyage home, as well as you were enabled to speak of it in the voyage out? Because her Majesty slept on-deck, and I had not so much occasion to go below.

You were able to speak, of your positive knowledge, as to where Bergami slept going out; how does it happen that you cannot form even a belief of where he slept coming home? I cannot state it, because I never went into those apartments.

You were the person who distributed the berths in the vessel, and who decided where all the individuals were to sleep on the voyage out: why did you not take the same pains for a similar distribution of berths on the voyage home?—

Mr. Denman objected to this question.

He denied that the witness had made any such admission.

The EARL of DONOUGHMORE then put his question in this shape:—Did you make any distribution of the births on the voyage home? You made a disposition of the births on the voyage outwards; did you make the same distribution on the homeward voyage?—The place which was appointed for Bergami to sleep in on his voyage out might have served for him in the voyage homeward, but I cannot say whether he slept in it or not.

You do not know whether he slept there or not? No, I do not.

You have stated over and over again, that you do not know where Bergami slept in the voyage home: how, then, are you so perfect in forming the negative idea as to where he did not sleep? As you cannot say where he slept, how can you be so confident that he did not sleep under the tent?—

Mr. Brougham.—Really, my Lords, I cannot permit this question to be put. The Noble Lord has assumed that the witness stated he knew where this individual slept; whereas, on the contrary, he has declared over and over again, that he could not say where this person slept.

Here there was a cry of “Let the witness withdraw.”

The DUKE of CLARENCE.—I think the Counsel ought also to withdraw.

The counsel and the witness having withdrawn.

The DUKE of CLARENCE said he rose to order. It had been said by a Noble Earl that day, that when any thing irregular or improper occurred at the bar, no Noble Lord should cry “Order,” but state what passed, and offer his objection to it. He would pursue this course. He conceived that the conduct of the Learned Counsel, a few minutes before, was not what it ought to be. He thought that the Learned Counsel had commenced an objection in a manner not suitable to the dignity of the House. He had stated, that “he could not permit a question to be put in a particular way.” This is all I have to say. I do not wish to interrupt my Noble Friend, but I did not think the objection stated in a way suitable to the dignity of your Lordships.

LORD FOLEY (as we understood) was of opinion that a fair latitude ought to be given to the counsel in offering their objections.

The DUKE of CLARENCE.—I do not mean to say, and God forbid that I should, that we, who are not professional or Learned Lords, should not be stopped by counsel, either by those who support the allegations of the bill or by those who appear for her Majesty, if improper questions are demanded. The counsel are, undoubtedly, bound to their duty. But I think it is the duty of this House to

see that due respect is paid to it; and that counsel, when they address your Lordships, should state, in a proper and respectful manner, whether a question, in their opinion, should, or should not, be put.

LORD REDCSDALE concurred in the opinion that objections ought to be put in the most respectful manner.

The EARL of ALBEMARLE observed that the counsel was stopped in the midst of his reasoning on the question, which he did not consider a just course of proceeding.

The LORD CHANCELLOR said it was nothing more than reasonable that they should allow counsel to interrupt any of their Lordships, if he conceived that an improper question was asked of a witness. He apprehended that the Learned Counsel did mean to act on that principle. At the same time, he was sure, as other professional persons would be, that in addressing their Lordships (he said it without intending to give any body offence, and even if it did give offence, he still felt himself bound to state it), a different language should have been used. The language that had been resorted to in opposing a question was not exactly that which it ought to be. He was sure, however, at the same time, that the Learned Counsel meant nothing disrespectful.

The EARL of DONOUGHMORE thought the house was much obliged to the illustrious person in the gallery for the interruption he had occasioned; at the same time he would do justice to the Learned Counsel, who, he was convinced, had no intention to give offence to their Lordships. He was quite sure that the Learned Counsel entertained no such intention. His conduct during the whole of this proceeding had been most correct and becoming. He agreed that the objection of the Learned Counsel would have been a proper objection if he had stated his (Lord Donoughmore's) question as he really put it. If he had put such a question as the Learned Counsel seemed to suppose, it would be highly proper in him to object to it; indeed, he ought not to have suffered such a question to go forward without objecting to it. He (Lord Donoughmore) stated what appeared to him to be the fact. He never intended to put into the witness's mouth that which he never uttered.

[There was here a cry of “Call in the counsel.”]

The EARL of DONOUGHMORE.—The question which I intended to be put, and which I am quite sure I did put, is that which will be now read.

The short-hand writer, Mr. Gurney, read the question:—How is it that you are so competent to form a negative idea of where he did sleep during this voyage of a month, and yet that you give a substantive declaration that he did not sleep under this tent?

The EARL of DONOUGHMORE.—

That is not exactly the shape in which I thought I had put the question.—Read the latter end of it.

The short-hand writer having done so—

The EARL of DONOUGHMORE said, certainly, if I put the question in this shape, it ought to be objected to by counsel. I did not intend to put in that form at all. The question I intended to put was this :

[Here counsel were called in.]

The EARL of DONOUGHMORE continued. My question was this :—Having sworn on your direct examination that you did not know where Bergami slept on the voyage homeward, account how you are enabled to form at once a belief as to the negative—namely, where he did not sleep—that is, under the tent?—

Mr. BROUGHAM said, he could assure their Lordships that he meant nothing offensive or disrespectful in the words that he had used, and which had recently been objected to. He believed their Lordships would recollect that, of the 50 or 60 times during which it had been his painful duty to oppose particular questions, he had proceeded in the same way. He had adopted the shortest possible course, and stated that he could not permit such and such questions to be put. He had, for the sake of brevity, dispensed with his ordinary phraseology, and adopted that language, which he believed, had always been allowed to the managers of impeachments before that house. Here, on the part of the bar, on behalf of the legal profession, he claimed the same liberty of speech that was allowed to the manager of impeachments. At the same time he would now waive the exercise of that privilege—he would, for the moment, lay aside that sort of phraseology that had been objected to, and use that language which was most congenial with his feelings, and with the respect that was due to their Lordships. He had objected to the former question because it was wholly different from the question now before their Lordships, which he considered unobjectionable.

The EARL OF DONOUGHMORE.—Read the last question.

The short-hand writer read the question, as previously given; to which the witness answered—During the different times that I have been sent for, or called for, by her Majesty, in the night, when she was on board the polacre, I never did see Bergami in the tent.

You have said, I believe, on your direct examination, that in the day-time you have seen Bergami sitting on the iron bedstead in the tent: have you not? I have, my Lord.

You have seen him sitting on the iron bedstead under the tent? I have—and have seen other persons.

Having seen him sitting on that bed in the day-time cannot be a reason for concluding that he did not sleep there at night? I had no reason for forming a conclusion on this

point, but that I went frequently to her Majesty, during the voyage from Jaffa, when she inquired at night how the weather was, and, on opening the tent, I never saw Bergami there.

Had he been on the bed, must you have seen him? I certainly must have seen him by the light of the binnacle.

This question was put to you at different times by the Solicitor-General—Do you take upon yourself to swear, that you have a doubt of Bergami having slept under the tent? do you recollect that question? Yes, my Lord, I do.

Have not you answered that question repeatedly, by saying that you could form no opinion on the subject; that you had other things to do; that you had the management of the vessel? was not that the sort of answer you gave to that question when put by the Solicitor-General?

The question was asked, and the answer repeated, two or three several times.

[The short-hand writer here read the part of the evidence alluded to, in which the witness deposed that he had never seen Bergami in bed in the tent, but had seen him in the daytime sitting on the bed, and that he could not say whether he never slept under the tent; all he could swear was, that he never saw him in bed.]

The EARL of DONOUGHMORE continued.—Referring then to this question, and to your several replies to it, put, as it was, three different times by the Solicitor-General; having so strong an impression as you seem to have, on your mind, that Bergami did not sleep under this tent; why did not you prevent the necessity of being questioned so often on the subject by at once saying, “I have not only no doubt as to his not sleeping there, but my belief is that he did not?”

Mr. Brougham opposed this question, as assuming a fact which was not in evidence. The question assumed that the witness had said that which he not only had not said, but, so far from it, when interrogated on this particular point, had sworn directly the reverse. He had not declared that there was an impression on his mind as to either where Bergami did sleep or did not sleep. The question assumed that the impression on the witness's mind was, that Bergami did not sleep in the tent.

The EARL of DONOUGHMORE denied that this was a correct statement of his question, which he desired might be read.

The question was read by the short-hand writer.

Mr. Brougham observed, that he now found there were two objections to this question, although he had originally stated but one. The first objection was, that there was a strong impression on the mind of the witness, but he denies that the witness had said any thing like this. When called upon to speak to the fact, he said he knew nothing of

the matter: and then, being obliged to speak as to his belief, he stated, "I have no knowledge on this subject; but as you press me for a belief, with respect to it, I must say, that, from all I saw, I believe that he did not sleep there." The next objection was very important; the question went a great deal further. It assumed that the witness had no doubt of Bergami's not sleeping in that place. The fact was, that, although he spoke on this subject with very great doubt—

The **EARL of DONOUGHMORE**.—The witness appearing to have had a strong impression on his mind that Bergami did not sleep under the tent, and having, under that impression, expressed his belief that Bergami did not sleep under the tent, why did not the witness at once, in answer to the Solicitor-General, express the opinion he has since done?—

Mr. Brougham submitted, that this question was exactly the same as that to which he had objected.

The **LORD CHANCELLOR** stated that a question of this kind could not legally be put. If the witness had declared that he felt such an impression, then it would be proper to state that he had said so and so, and, repeating his words, to found a question on them.

The **EARL of DONOUGHMORE**.—The witness having stated his belief that Bergami did not sleep under the tent during the voyage home, why did he not state that belief, immediately, in answer to the first question? (The question was deemed inadmissible.)

I believe the witness said something with respect to the fear of pirates in his former examination—as to the putting out the light, on account of the apprehension of pirates? I did.

(The short-hand writer read that part of the witness's evidence which was alluded to. The witness deposed that he recollected the light in the tent had been put out for the preservation of the ship and all on board, information having been received that great number of pirates were in the Archipelago.)

The **EARL of DONOUGHMORE**.—Where was it you received this information? I received it at Milo.

And when, in consequence of that information did you begin to take away the light from the tent? After we had reached Jaffa, my Lord.

You first heard the report at Milo, and after you reached Jaffa, you began to put out the light? Yes; because that information was there confirmed.

You have mentioned that you have gone into the tent at night, by the orders of her Royal Highness? I never went into the tent.

To the door? there was no door; there was an opening.

You have lifted up a part of the tent so as to see her Royal Highness? I have looked in.

Well, looked in, so as to see her Royal Highness? Yes, I have my Lord.

How was she on those occasions?—was she dressed? She was dressed, my Lord.

She was dressed? Yes, my Lord, lying on her bed.

**EARL MORTON**.—The binnacle was near the tent; did it throw out light on the opposite side? Yes.

How was the binnacle protected? There was a drawer, or a slide; I am not positive which.

And you have stated, that, by the light from the binnacle, you saw to the end of the tent, when you lifted up the curtain or made the opening? Yes.

Did not the light from the binnacle strike full on the outside of the tent, when it was closed, so as to render it visible? It did.

You have stated that you caused the light to be put out, from the apprehension of being seen by pirates? I did.

Was the light reflected from the binnacle, on the opposite side, necessary for that purpose? No, it was not.

Then why did you not conceal that light, in order to prevent being seen by pirates? It was necessary to give a certain vent to the light in the binnacle, or it could not be kept in.

Would not the air put it out? It would, if wholly exposed to it; and it would also go out if some air were not admitted.

**LORD COLVILLE**.—State whether or not there was great danger of the light in the binnacle being blown out in the case you have described? I do not think there was. If the binnacle had been left entirely open, the light would have been blown out.

If there was a shutter, as usual, in the fore-part of the binnacle, might it not be left sufficiently open to admit the air, without any considerable degree of light issuing from it? Yes; and it would still afford sufficient light to allow me to look into the tent, as it was so near.

In the course of your experience as a seaman, have you not observed great pains taken to prevent any light from issuing from the binnacle at all? I have on board King's ships; but not in such a vessel as this, where we had not all the conveniences required.

I do not understand what is meant by the word "conveniences," as used by the witness? I mean that the binnacle had not the regular funnel to let the smoke through. A piece of lead, with holes perforated in it, was the substitute, which would not admit sufficient air.

In the early part of your examination you have stated that you were captain or master, or placed in charge of this polacre, during the voyage which her Royal Highness made in her? Yes; by her Royal Highness's direction I took the command of the vessel.



Then can you state whether you had only the means on board this vessel, so under your direction, merely to have a few holes perforated in a piece of lead, as part of the binnacle; or whether you could have procured a proper funnel, to enable the light in the binnacle to burn all night, without that light being seen, so as to escape the observation of pirates? I had not the fitting up of the ship, except that part of it which was fitted up for the convenience of her Royal Highness, I did not particularly observe that such a thing was wanted until I actually found it was wanted. If I had, I should have had the alteration made.

As the navigation of the polacre was intrusted to you during this voyage, who attended to the ship's course, and who kept the ship's reckoning? I did; and I kept the reckoning myself.

By whose reckoning was the ship steered or conducted? Generally speaking, by my own.

I do not perfectly understand the witness. I wish him to be more explicit. The course must be taken from the reckoning. From whose reckoning was it taken? The master, the mate, and myself, compared our works, and by these we proceeded.

After comparing these respective reckonings with each other, who gave the directions as to the course to be steered? I gave them myself to the captain, and the captain to the subordinate persons.

Having the charge of the ship, how do you explain what you said as to the fitting up of the vessel being imperfect? The charge of the ship was not given to me by her Royal Highness till I left Augusta. I had the honour to fit up that part of the ship which was occupied by her Royal Highness; but I had not the command till we sailed from Augusta.

And had you not the means to rectify any defect in the binnacle? I did not at first observe the defect. It would have been remedied if I had seen it in time; but I did not observe it till we were at sea.

You have stated that there were two captains or masters on board this polacre; I beg you will now state to the House who was the master, or the constituted authority, who had the charge of this vessel, and of the stores, provisions, &c.; the person who was responsible to the owners of the ship? The captain, who was part owner. I had nothing to do with the stores or the victualling of the crew. The crew were to be paid by the captain.

State the name of that captain? Gargillo.

Whose duty was it to keep the log-book of that ship? On board all merchant-ships the mate or the pilot keep the log-book.

Was the log-book actually kept by one of those persons? I do not know.

In what book was the ship's reckoning kept? In the general log-book.

And you do not know who kept it? I do not.

Was the order for the erection of the tent given by you; or by her Royal Highness? The first direction was given by her Royal Highness, and afterwards I directed it myself.

Were the directions to the sailors to erect that tent given by you? They were given by myself, in consequence of the orders of the Princess.

Then, I presume, you can inform the house what were the dimensions of that tent, what was its extent, or nearly its extent? I cannot exactly state the length of the tent, but it extended from the mizen-mast to the main-mast.

Was it close to the mizen-mast, towards the stern of the ship? It was.

Was it fixed to the mizen-mast? Yes, it was; the after-part touched the mizen-mast.

Are you enabled to form any idea of the length of the tent? I think it must have been 22 or 23 feet long: perhaps more; but I cannot be precise, for I did not measure it precisely.

Then we may suppose the tent to be near 20 feet in length, or thereabouts, I should suppose it was.

You have stated the breadth of the ship, in this particular part, to be about 19 or 20 feet? Yes, but I cannot be precise as to the measurement. I never measured the space.

How much less, do you suppose, than the breadth of the ship, was the breadth of the tent? I should consider about a foot. The tent was nearly hauled up to the rigging on each side.

Where did the binnacle stand, in reference to the mizen-mast of the vessel? It stood near the mizen-mast.

Behind it, or before it? It stood abaft; it could not stand before it, on account of the tent.

Am I right in understanding you to say that the whole of the space within the tent was sufficiently illuminated by the light of the binnacle to enable a person looking into the tent, having lifted up a part of it as you have described, to see every object in that tent? Yes, my Lord.

I understand you to say, that the communication, by the companion ladder, which led from the interior of the tent to the dining-cabin, was always open by night? The passage was open, but the tent covered the hatchway.

What time would a person occupy in descending from the tent to the cabin by that open communication? Speaking of myself, as a sailor, it might be done in a second.

How many persons did the crew of the polacre consist of? Twenty-two.

The navigation of the polacre having been intrusted to you, perhaps you can inform the



How many of those twenty-two sailors were in the habit of going to the helm in their turn? I believe three; I never know any more.

How often were they relieved? They took the whole watch, four hours.

In answer to a question by EARL GROSVENOR, the witness stated that Hieronymus slept in the foremost cabin on the larboard side; William Austin slept on the opposite side, as did Schiavini and Lieut. Hownam.—The reason he knew where the above-named persons slept (and did not know where Bergami slept) was, that he had an opportunity of seeing those persons who slept outside the dining room, and he frequently bade them good night; he had no other reason.

By LORD FALMOUTH.—You have said that the memorandum was written by your clerk, and afterwards by Schiavini; will you explain what you meant by saying so? I explain it by saying that it was written by my dictation.

Does Captain Flynn mean to say that it was one and the same memorandum with the one which he has now produced? It was copied from that memorandum, according to my dictation.

Is that document from which Schiavini took a copy now in existence? The memorandum I presented is written by Schiavini himself.

That is not an answer. I repeat, is that document from which Schiavini took a copy now in existence? No, it is not.

Does the witness mean to say that his clerk or servant took the first copy? Yes.

And that he gave it to Schiavini to make the copy from it which is now produced? Schiavini wrote what I dictated from it.

Does the witness mean to say that the paper in court was dictated by him? Yes; Schiavini wrote it after my dictation from the original copy, which I brought from Sicily.

Then the witness did bring the original copy with him from Sicily? Yes.

Is it in existence? No.

What did you do with it? I destroyed it.

For what reason did you destroy it? It was written in such bad Italian that I did not wish to have it presented.

Have you not stated, that it was written partly in English and partly in Italian? No: it was all written in Italian, and in very bad Italian.

Are you sure that it was a true copy from the original taken in Sicily? Yes.

Did you not state, that when you first took that copy, it was partly in Italian and partly in English? I do not recollect having done so.

Did you mean to state, that with regard to the original log-book or your own original copy? The original log-book was partly in English and partly in Italian; the original

By the EARL of LAUDERDALE.—When was it that this original copy was destroyed? I do not remember.

Was it destroyed on the same day, on which you dictated the new memorandum to Schiavini? Yes, it was.

Did you ask Schiavini to write it for you, or did Schiavini begin the conversation with you about it? No, I asked Schiavini to write it for me.

Where did you find Schiavini? At her Majesty's house.

Do you live there? No.

Do you frequently go there? I have not been there for the last five or six days.

Had you had any conversation with Schiavini about this memorandum before the time to which you have alluded? No.

Did you get Schiavini to write the copy, and did you then destroy the original? Yes, I did.

By the MARQUIS of BUCKINGHAM. Do you mean to swear that every time you looked into the tent at night you saw the Princess? Yes, I do.

After the rumour of pirates being in the Mediterranean had been confirmed to you, did you take any means for diminishing the light of the binnacle? Yes, sometimes a flag was thrown over it, sometimes not.

Then, sometimes the light of the binnacle was masked? It was masked, but not entirely.

Did you ever, when the binnacle was masked, look into the tent? Yes, I did.

When the binnacle was masked, as you have described it, were the lights of the ship distinctly visible? No; the bulwarks of the ship were very high, and the binnacle was not a foot and a half above the deck, so that the light could not be seen.

Some questions were here asked as to the arrangement of the births after her Royal Highness had taken a surgeon on board the pulacre; but they were asked and the answers were given to them in so low a tone of voice, that, even after they had been read over by Mr. Gurney, we found it impossible to catch them with any degree of accuracy. It appeared to us that the witness deposed, that, on the first arrangements of the births, Bergami slept on the outside of the cabin, but that he afterwards slept in the dining-room; that this was in consequence of Schiavini's birth being assigned to the surgeon, and Bergami to Schiavini; that Bergami's birth was on the starboard side of the ship; and that the orders which he received to make these arrangements came, he believed, from her Royal Highness, though he could not be positive upon that point.

You have mentioned, in your former evidence, a tub for bathing: do you know whether it was ever used by her Majesty for that purpose? I do not positively know that it

I have, however, every reason to believe that it was, from having heard water ordered to be got ready for that purpose.

Where did the tab generally stand? In the dining-room.

On which side of the ship? On the star-board side.

By the DUKE of CLARENCE.—How many years were you in the King's service as a midshipman? I cannot precisely recollect; but I think from seven to eight years.

How many years was it before you were made a Lieutenant? I believe eight years, but I do not precisely know.

I think that you have before stated that you had been 11 years a Lieutenant: now, if you have been eight years a Midshipman and 11 years a Lieutenant, you have been to sea for 19 years, according to your statement? Yes, certainly I have.

Will you describe the make of the binnacle? It was a small case with two compasses, one on each side; and in the centre there was a light for the steersman to look through, on the foreside: whether there was a glass or a door I cannot say.

How was the light shown forward? There was an opening in the front of the binnacle.

Was the opening of glass or of wood? I cannot exactly say; I think it was of wood.

If it was of wood, did it move up or down, or athwart-ships? Athwart ships.

You having stated that you considered it to be conducive to the safety of the vessel that a little light should be shown on deck as possible, could you not, from the seamanship which you must have obtained in 19 years, have placed a light under the binnacle at sea, and yet have had the fore-part covered so that the light should not be thrown forward? By closing up the front part, the lights could not have been kept in.

Could not you, as a seaman, have found some means to let the smoke out, and not have the light seen forward? By making large holes forward.

If you conceived that the safety of the vessel depended upon having the light confined, why did you not make holes to prevent the light from being seen? Because, by doing so, it would have admitted water to have fallen on the lights.

Water! what water? Rain or sea, when the sea was high.

What was the upper part of the binnacle, up which the smoke passed? Lead.

Was it flat or raised? It fell in, rather.

Do you ever recollect in the 19 years of your service, to have seen a binnacle which fell in before? In the ships of the Mediterranean they are obliged to have the light put in the front of the binnacle in order to trim it, for there they have always a lamp.

I don't understand that to be an answer to my question: why is the lead in the reverse way in the ships in the Mediterranean to what it is elsewhere? I do not know, I found it so when I went on board.

Where did you go on board? At Messina.

Could you not, in the harbour of Messina, have altered, if it were necessary, so material a part of the vessel as the binnacle, previous to your sailing? If I had observed that it had been wanting, I certainly should have done it.

Do you not think that, having charge, as you had, of the vessel on board of which the Princess of Wales had embarked, it was your duty to have altered it? I had not charge of the vessel at the first minute when her Royal Highness embarked.

When did you take charge of it? After we had left Sicily.

How long after? On the first night afterwards.

Where did you sail from? From Augusta.

Where were you when you first heard of pirates in the Mediterranean? At Milo.

Was it in your voyage up the Mediterranean? It was in the voyage up.

How many days was it before you went from Milo to your next port? We went from Milo to Athens (we think) in a few hours.

When was it that you first began to believe that there was any truth in the rumours which you heard about the existence of pirates? We did not put any confidence in them till we came to Scio, in our road to Constantinople.

Could you not then have made some alteration in that binnacle? Yes, if we had stayed long enough.

Did you go from thence to Ephesus? We went from thence to Scala Nova, which is the port of Ephesus, there we lay for two days.

Could not the binnacle have been altered whilst you were there? The binnacle could not well have been altered in less time.

I talk not now of the position, but of the positive effect of the binnacle. Do you mean to say that you could not have altered it in that time? Not well in less.

In what ship did the binnacle stand? The binnacle stood abaft the midships.

Of what nature was the tent which you have described as being placed upon deck?—It was a ship's tent made of cotton.

How was it hoisted upon deck?—It was fastened to the combings of the hatchway.

You have stated that you were in the habit of sometimes looking into that tent during the night: how was it raised to enable you to do so?—The witness shortly described the mode of raising it, but in so low a tone of voice that we did not catch his answer.

You have said that there was a hatchway

under the tent, why, then, was the light handed out of the tent, and not sent below?

Mr. Brougham objected to this question. The witness had never said that the light was handed out of the tent and not sent below, and therefore could not be asked what was the reason of its being done.

The DUKE of CLARENCE maintained that there was an answer to that effect in the minutes of the evidence given by this witness. (Cries of No, no; it is in Majocchi's.)

The witness here said, "It is not in my mind that I ever gave such evidence."

How many doors were there to the bed-chamber or cabin of the Princess? There was one door, which divided in two.

What was there in that chamber except the bed? There were two sofas in the cabin; they were lashed together in the centre of the cabin, that is, from the centre of the division up to the starboard side of the ship.

What was the space between the sofas and the larboard ship? As much as five or six feet.

Supposing the double doors which you have described, to be thrown wide open, could the bathing-tub you have mentioned have been brought into the bedroom? No.

By the EARL of BALCARNAS.—Did your private log-book differ occasionally from the log book of the ship? I can't say.

Did you conceive yourself to be entitled to alter, correct, or confirm the log-book of the ship? No.

Did the master of the vessel make a regular report to you? He never made any report to me respecting the log.

Did he never report to you regarding the common occasions of the ship? In general but he did when it was necessary to make an observation of the sun.

Had you never any punishment on board your ship? Never.

Did he report to you, as a lieutenant would report to his superior officer? He addressed me as commandant of the ship upon all occasions.

Did you not find this half-sort of command very inconvenient, and somewhat inconsistent with the good order and management of the ship? I cannot say that I ever experienced any negligence on the part of the captain or the crew to any of my orders.

Did you assume the command in consequence of her Royal Highness being on board, or by virtue of some charter-party? I assumed the command by order of her Royal Highness. It was agreed with the captain that I should have the entire navigation and manœuvring the ship.

The witness was then ordered to withdraw.

W. CARRINGTON (who, on the motion of LORD MELVILLE, had been ordered) was then called to the bar, and examined by that Noble Lord.

You stated, in your examination in chief, that, before you were in the service of Sir Wm. Gell, you served in his Majesty's navy as a midshipman? Yes, with Sir John Beresford.

You also stated that you had not been in his Majesty's service previously to serving in the Poictiers; is that true? I understood the question as relating to my being at sea with Sir John Beresford. I certainly had been in other ships before.

You were also asked in what situation you were before you went on board the Poictiers, and you answered that you were at sea when a boy in a merchant-vessel; that you were afterwards on land, and got your livelihood the best way you could. Is that correct? Yes, it is.

The next question asked was as follows:—"You were never in his Majesty's service previously to serving in the Poictiers. No." What did you mean by that? I understood the question to relate to my being with Sir John Beresford: my answer alluded to him.

Then upon the two questions as to whether you were in his Majesty's service previously to your being rated on the Poictiers, and upon your answering No, I am to understand that that answer would not be correct as the question is now asked; I certainly have served with other captains.

In what situation did you serve his Majesty previously to your being in the Poictiers? I was quarter-master on board the Majestic before I was in the Poictiers.

Had you been in any other ship before you were in the Majestic? Yes, I had been in the Namur (we think) along with the same captain who commanded the Majestic.

Were you on board of any other ship? Yes, I was two months on board of a brig, whose name I do not recollect just at present: I do not know whether I was on the books of that ship or not: I received, however, pay.

Did you ever serve on board of any other ship? Never.

Were you a volunteer, or pressed? I was pressed.

Did you serve as a midshipman on board any other ship than the Poictiers? Never. On board the Majestic I served as a quarter-master or gunner's mate.

You have said that you were at sea in a merchant-vessel when a boy; that you were afterwards on land, and got your livelihood as you could. Now how long were you on land? I was born and brought up on the sea-coast: sometimes I was on land; sometimes I was engaged in fishing and in boats; sometimes I was in merchant-vessels, or coasters.

In what service were you when you were impressed? I was, when I was impressed, in a boat belonging to a merchantman.

How long were you in the merchant-service? I don't exactly recollect. From the time I was a boy I had always been employed in some way or other about them. When I was not engaged in them, I got my living on land as well as I could.

I ask you how you reconcile your statement of being upon land for some time with your being impressed from the merchant-service? When I was living upon land I engaged in fishing and piloting: at other times I was in the merchant-service.

When you were asked what were your reason for leaving the navy, you replied, in one case, you did not like the sea, and that Sir J. Beresford had obtained your discharge; and yet in another, when you were asked the same question, you said that you did not leave it for any other reason than your own request. How do you reconcile these two statements? I had often been promised a lieutenant's warrant in consequence of my services, but had never got it; besides, I did not wish to become an officer on the quarter-deck, as I had not friends or money to support the rank of an officer. I therefore wished, as the sea was disagreeable to have my discharge.

Was it at your own request, then, that you were discharged? It was.

It was not at the request of Sir W. Gell, was it? I beg leave to explain the manner in which I became acquainted with Sir W. Gell. I saw Sir W. Gell when he was a passenger on board the *Paictiers* to Lisbon, and also when he was upon his passage back. I met him one day upon the poop, when he asked me several questions, to which I gave the best answers which I could. Many other things also he asked me to do for him in his cabin, which I did, as at that time he had no servant. When we came near land he expressed his obligations to me, and said, "I can't give you money at present; but if there is any thing I can do for you with Sir John Beresford, I shall be very happy to do it." I told him that I wanted my discharge, and that I should be very glad if he could enable me to get it. He then said that he would do his best to obtain it for me. I then explained to him the situation in which I stood. I told him that I expected to have a Lieutenant's warrant, but that I was not able to appear as a gentleman on the quarter-deck. He desired me to consider well before I determined, and said that he would speak to me on the subject next day. On the following morning he asked me if I was still of the same mind; and I said that I would rather leave the navy. He accordingly mentioned the subject to Sir John Beresford, who said that he would certainly get my discharge, and that there would be no difficulty in doing

it. I heard nothing farther of it till I came to Portsmouth, and then Lieutenant Alsop, the commanding officer of the ship at that time, came to me and said he had heard that I was wishing to start from the navy. He asked me what was the meaning of it, and said that I was mad to leave the service, now that I had got what I wanted. I replied that I had obtained the object of my wishes; but that I could not support the expense of an officer's rank on the quarter-deck, and that I would rather be discharged than remain a midshipman. He again said I was mad to leave the navy. Sir William Gell and Sir John Beresford met in London (as we understood the witness), and thought that there was something mysterious in the affair; they wished to prevent me, if possible; and Sir John said he would send a man down to me. Capt. Jones came, and gave me leave of absence; and I was told to go to London to Sir John Beresford, and receive my orders. I went accordingly, and was asked by him if I was still of the same mind as to leaving the navy. I said, yes. He then directed me to go down to the *Thisbe*; and a letter was sent to the commanding-officer of that ship, but whether by the post or by me I do not know. I went to the *Thisbe*; and when I came on board they said there were no papers for me, and that they knew nothing of my name. I wrote to Sir John Beresford, stating this; and he desired me to remain where I was, and said that if they troubled me I was to let him know, and he would give them an answer. He gave me a certificate under his own hand. I remained two years with Sir William Gell, and at the end of that time I met with Sir John Beresford, and told him that I had not received my pay. Sir John said he would give me a letter to a gentleman in Somerset-house, from whom I would receive my pay, which I did, on presenting the letter.

Do you adhere to your former answers, after having given this explanation? Yes, certainly.

Did Sir Wm. Gell ask for your discharge? He said he would do any thing for me that I wished to be done, if it was in his power and I told him that was the thing that I wanted.

Are you acquainted with Sir Wm. Gell's hand-writing? I think I do know his writing.

Have you ever seen his writing? Yes.

And you think you know it? I think I do.

[A paper was then handed to the witness by Lord Melville.]

Is that his hand-writing? I believe it is his hand-writing, but I am not certain.

Do you believe it to be his hand-writing? I cannot say positively; I think it is his; he writes different hands; I think it is his writing, but I am not certain.

I understood you to state that in point of fact you received no regular discharge? I had no other discharge than what I have

stated that I received from Sir John Beresford.

By the DUKE of CLARENCE.—In your former examination you said, that, while in the navy, you were never in any other ship than the *Poictiers*? I understood that I was asked if I had been in any other ship with Sir John Beresford.

Were you turned over from the *Majestic* to the *Poictiers*? Yes.

Did you do duty on the quarter-deck? As a quarter-master.

You said formerly that you were on the quarter-deck from the beginning? (Cries of no, no, from several Peers.)

The DUKE of CLARENCE.—That is perfectly satisfactory.

By the MARQUIS of LANSDOWN.—Was the request of Sir W. Gell; for your discharge, made by your authority? Yes.

By LORD COLVILLE.—Were you rated midshipman from the time you joined the *Poictiers*? I do not know. I was when I left her. I saw that by the ticket.

What ticket do you allude to? The ticket of leave of absence which Sir John Beresford gave me with his own hand.

You have stated that you received your pay at the Pay-office at a subsequent period? Yes.

Were you paid under vouchers? Sir John Beresford gave me a letter to a gentleman in Somerset-house, and he paid me on receiving the letter.

By another PEER.—What do you wish to be understood as your reason for quitting the navy? My reason was that I had no money to appear as a gentleman on the quarter-deck.

By LORD EXMOUTH.—Where were you born? At St. Oswith, near Colchester, in Essex.

Was that your usual residence? Yes.

By LORD ELLENBOROUGH.—On your former examination you gave the following evidence:—

“What situation were you in before you went on board the *Poictiers*? I was at sea in a merchant-vessel when a boy. I was afterwards on land, and got my livelihood the best way I could.

“Were you never in his Majesty's service before you went on board the *Poictiers*? No.”

Now, am I to understand that you conceived that question to refer, not to the ship, but to your serving under Sir J. Beresford? I understood it to refer entirely to Sir J. Beresford.

Mr. Brougham begged permission to put a few questions to the witness, and he assured their Lordships that, if this indulgence were granted, he should confine himself strictly to the points on which the witness had on this occasion been examined.

The LORD-CHANCELLOR.—You are entitled, Mr. Brougham, to what you ask as

*Examined by Mr. BROUGHAM.*

Were you ever dismissed from any of his Majesty's ships in which you served, for misconduct? Never.

Were you ever punished while in the navy? Never.

Had you ever any quarrel with any of the officers that you wished to conceal? Never.

Had you ever any reason to conceal any part of your conduct? Never once.

Did you always give satisfaction to all the officers under whom you served? Yes; Sir J. Beresford will state that, as he has always stated.

Have you ever received a certificate from the commanding officer on leaving any of his Majesty's ships? Always. I have always been strongly recommended by my commanding officers on leaving them.

Mr. Brougham requested permission to put to the witness a question which had been accidentally omitted on his former examination; and he would state to their Lordships the reason which led him to ask this indulgence. In consequence of the interruption occasioned by the discussion which had taken place on a preceding question, by his Learned Friend (Dr. Lushington), who was examining the witness, had accidentally turned over that page of his brief at the bottom of which this question stood. The question would be found not only in his Learned Friend's brief, but in all the other five briefs: and he and his Learned Friends were ready to pledge their honour to the House that it was not a new point which had been suggested since the former examination of the witness. All he wished to ask the witness was, whether or not he knew, of his own knowledge, that, before the Princess of Wales arrived at Naples, William Austin slept in a separate apartment from that of her Royal Highness, the witness having made William Austin's bed?

Dr. Lushington begged to state to their Lordships how this omission had occurred. At the conclusion of the questions, in his brief, stood this one; and preceding it was the business about *Majochi* and *Ompteda*, which, their Lordships would recollect, had given rise to a great deal of discussion. He had not forgot, in consequence of that discussion, that another question remained to be put; but, at the moment when he was about to refer to it, a different question was handed to him on a slip of paper, and that put the other out of his mind.

The LORD-CHANCELLOR said it was customary to allow a counsel to put a question in such case, when he stated his readiness to pledge his word of honour that he had intended to put it on the examination in chief. (*Hear, hear.*)

Dr. Lushington added, on his word of honour, that the question was accidentally



omitted by him when the witness was formerly examined.

The witness who had been ordered to return during this discussion, was recalled, and examined by Dr. Lushington, through the Lord-Chancellor.

Did you ever, on the journey of her Majesty to Naples, make any beds? I assisted in making them.

Did you ever make Wm. Austin's bed? I assisted to make a bed for Wm. Austin.

Was that bed made for Wm. Austin in her Royal Highness's bedroom, or in another apartment? Sometimes, when there was room, it was in her Royal Highness's bedroom, and, when not, in other places.

*Cross-Examined by the ATTORNEY-GENERAL,*

Did you make Wm. Austin's bed out of her Royal Highness's room more than once? More than once or twice; but I cannot recollect how often.

Do you recollect any of the places where you made William Austin's bed in a separate room from that of her Royal Highness? At Domo d'Oscilla, as far as I can recollect.

Any places besides? I cannot recollect exactly. It was on our way through Italy.

By the EARL of LAUDERDALE.—Was there any other bed belonging to the house in the room in which you made Wm. Austin's bed? There was another.

Then you only made Wm. Austin's travelling bed, and the other was left unused? I don't know whether it was used or not: it was left by me.

*LIEUT. JOSEPH ROBERT HOWNAM, sworn, examined by MR. TINDALL.*

You are a lieutenant in the Royal Navy? I am.

How long have you been a lieutenant? Since the early part of 1809.

Where do you live at present? where are you settled? At Rouen, in France.

Are you married and settled there with your family? I am.

Did you at any time join the party of her Royal Highness the Princess of Wales? I did.

When? In the month of April, 1815.

Where was the Princess at the time? At Genoa.

How long did the Princess remain at Genoa after you joined her? About six weeks.

Do you recollect at any time, while at Genoa, any disturbance happening in the course of any night? I do.

What was the nature of it? It was supposed that the house was broken into.

Was there any general alarm made in the night? There was.

Did you get up in consequence. I did.

Where did you go? Into the great hall.

Who was the first person you saw on that occasion? The first person I saw was Bergami, who came into my room.

Did he give you the alarm? He did.

Had he any thing in his hand at the time?

Yes, a candle, and I think a sword.

After the alarm so given, did you go down? I was on the ground floor: my door opened into the hall.

Did you afterwards go into the hall. Yes.

Whom did you find assembled in the hall when you got there? I found the Princess and many of the servants.

During the time you were at Genoa, did you ever breakfast with the Princess? Never.

Have you ever seen her at breakfast? I have.

At the time you saw the Princess at breakfast, was Bergami with her? He was not.

Did you ever know him breakfast with the Princess at Genoa? Never.

Were you in the habit of dining with the Princess, while at Genoa? Every day.

Did Bergami dine at the Princess's table any day, while at Genoa? Never.

Can you recollect, at this moment, at what place it was that Bergami first began to dine at the table of the Princess? I do not recollect the name of the town, but it was on a journey over St. Gothard.

Do you recollect about the date of that journey? It was in the month of August.

August of the same year? Yes, August, 1815.

You say that the first time of his dining was on that journey: did Bergami continue to dine regularly from that time, or did he continue regularly at a subsequent time? He did not dine regularly till after that; he began sometime after that.

What was the place of residence of the Princess at the time he so began to dine? At Villa d'Este.

Do you recollect to what place the Princess went after she left Genoa? To Milan.

Do you remember when her Royal Highness's residence was at a house called the Casa Borromeo? I do.

Do you remember a staircase in that house, on the landing-place of which the door of the Princess's sleeping apartment opened? I do.

Do you know whether that staircase was a secret staircase, or whether it led up to other apartments? It was not a secret staircase; it led to other apartments.

Do you mean to the apartment in which you slept? I do.

Were there any other persons who went up that staircase to other sleeping apartments? It led also to the chambers of the lower servants.

Do you know whether that staircase was ever used by those servants in going to their sleeping apartments? I do not recollect having seen them upon it.

Was it the staircase you were in the habit of using when you went to your apartment? It was.

Do you know of any door at the top of the staircase, which, by being locked, no other person but Bergami could get to the Princess's apartment?

[Mr. Tindall having put this question, begged to postpone the answer to a subsequent part of the examination.]

Where did you go to after you left Milan? To Venice.

Upon a little tour; I believe? Yes.

About what time was it when the Princess of Wales took up her residence at Villa d'Este? I think about the latter end of September.

Do you recollect the position of the Princess's room, and of Bergami's room, at the Villa d'Este? I recollect the Princess's room, but I do not know where Bergami slept.

Were there any stairs near the door of the Princess's sleeping apartment? There were.

Was there a door at the top of the stairs? I cannot say.

Do you recollect, upon the long voyage, being at Tunis? I do.

Did you accompany the Princess during the whole of the long voyage? I did.

Do you recollect where Bergami slept at Tunis? I recollect his pointing me out his room.

Did you see him in the room using it as his own at the time? Yes.

Was that room in which you saw him near the room of the Princess? No.

Describe, if you please, the different situation of the two rooms? Bergami's room was the only room up a flight of stairs that any person of the house occupied, I believe.

Whereabouts was the Princess's room? There were several rooms between the flight of stairs and the Princess's apartment; that is to say, they were 3 or 4 rooms apart.

Was Bergami's room on the same story or floor as the Princess's? It was not.

Was the Princess's room on the ground-floor? We did not occupy the ground-floor.

But on which floor was the Princess's room? On the same floor as all the rest of the household.

Do you remember while at Tunis taking a short journey to Utica? I do.

Did you sleep at Utica? We did not.

Where did the party sleep on the night of the day of your visit to Utica? At the palace of the younger Prince: the house is called Sabella.

Were you on board the polacre during the voyage? I was.

Be so good as to describe if there was any separation between that part of the ship occupied by the Captain and crew, and that part that belonged to her Royal Highness and suite? It was quite distinct; it was separated by a bulkhead.]

Had the captain of that vessel any duty to perform which carried him to the part of the vessel occupied by the Princess? None whatever.

Do you know in what part of the vessel the water-closet appropriated to the use of the party was? I think there were two: one from the cabin of the Princess, and the other from the cabin of the Countess Oldi.

Had the captain any duty to perform which should take him into the part of the vessel where these were? None whatever.

Did you ever see the captain during the time you were on board, in that part of the vessel? Never.

Do you recollect landing at or near Ephesus? I do.

What was the name of the place where the Princess slept on the night of your landing? We slept on the plains of Ephesus.

What erections or contrivances were made to enable the party to sleep there? We slept under a shed.

Did the Princess sleep under this shed?—She did.

How was the shed constructed? Whether of planks or boughs I am not certain.

Was it enclosed on each side or open in any way? Open.

Where did the suite of the Princess sleep? All round her.

Did you sleep near the Princess among the rest of the suite? I did.

Do you remember where the Princess dined on that day; or it might be on the next day, I am not sure which; but on either day when there was a dinner? In the church-yard, next the coffee-house, where they slept the night before.

What did you dine under. What was there above you? The portico of an old mosque.

Did the Princess dine alone on that occasion? I am convinced that we all dined together.

Do you mean that you recollect that you dined together? Most perfectly.

How did you continue to sit upon that occasion? Upon the ground; the Princess on her travelling bed.

Did any body sit with her on the travelling bed? They did not.

Are you sure that the rest of the suite, or part of the rest of the suite, were near the Princess during the time of dinner? I am confident as to having dined myself, and every body else.

Do you recollect where the Countess of Oldi sat on that day? I cannot recollect the spot she sat on; I am convinced we all dined together.

Were did you afterwards re-embark? At Scala Nova.

And to what place did you sail? To St. Jean d'Acre.

Were you after that, or before that, I am not certain as to the order, at Constantinople? Before.

How long did you remain at Constantinople? I should think about 13 or 14 days, or more.

In whose house did the Princess reside during that time? In the palace of the British Minister; we were only about 5 or 6 days there.

What was the name of the Minister? Mr. Frere.

Do you know whether he is alive? I have never heard of his death.

Did you afterwards in the course of the voyage land at St. Jean d'Acre? We did.

In what way did the Princess travel from St. Jean d'Acre to Jerusalem? Upon an ass.

Is that the usual mode of travelling in that part of the world? On asses or mules, or in a palanquin.

How did you travel yourself? On a horse.

Was the course of your travelling to proceed by night, and to lie by day? It was.

In what manner did the Princess rest during the day? Under the tent.

Did you observe whether the Princess, before she lay by for the day, appeared fatigued or not? Excessively so.

Did that appear the case during the whole of the journey from St. Jean d'Acre to Jerusalem? Yes.

Did you make any particular observation as to the nature of this fatigue? I have seen the Princess fall from the ass more than once.

Towards the latter part of the night? Towards the morning.

Do you recollect whether on your voyage to St. Jean d'Acre there was a tent on deck? Yes, there was.

On the outward voyage was this tent constantly erected on deck, or only occasionally? Occasionally, to protect the Princess from the sun or wind. In fact it was the awning of the ship.

You re-embarked at Jaffa on your return? We did.

Was the weather at that time hot or otherwise? Excessively hot; it was in the month of July.

Had you any cattle on board the vessel? We had.

What did it consist of? Horses and asses.

Had you more on board on your return than you had on your voyage out? We had none going out.

In what part of the vessel were those animals kept?—In the hold.

Did they make any noise in the course of the night or the day? The general noise of horses and such animals.

Was there any smell occasioned by the animals being put into the hold? Yes, certainly.

Where did her Majesty sleep on the voyage from Jaffa homewards? In the tent on deck.

By whose direction was the tent put up? By direction of the Princess.

Did it remain permanently on the deck from the time of your quitting Jaffa, to the end of the voyage? It did.

Do you recollect at any time any complaint made by the Princess as to the rate of the vessel's sailing? I do.

What was the complaint? On our return from Rhodes to Syracuse the voyage became excessively tedious, and the Princess was naturally anxious to get on shore; she attributed our delay to the want of sailing of the vessel, and I stated that it could not sail so well with the tent on deck.

The Attorney-General objected to a detail of the whole conversation.

M. Tindall maintained that the line of examination he had pursued was open to him.

The Attorney-General withdrew his objection for the sake of saving time.

What did the Princess say to you?—As to the tent I do not care about it; I would as soon sleep without it.

What was the occasion of the Princess's sleeping on the deck during the return voyage?—In consequence of the excessive heat and the animals on board.

Do you remember any circumstance relating to the light being kept in the tent? I do.

What was it?—The Princess in the previous part of her journey used to sit on deck till a late hour with this light. On leaving Jaffa reports were in circulation of Tunisian vessels in the Archipelago. I stated that it should not be kept on deck all night, as it served as a mark to vessels cruising in those seas.

Had you, in point of fact, seen any Tunisian vessels yourself? Yes, we had seen one at Scios, and another at St. Jean d'Acre.

Do you know of your own knowledge whether they had plundered any vessel? I only knew it from report.

Did you, in the situation you held, think it a matter of duty to give that advice to the Princess? I did.

And, in consequence of the advice, was the light put out earlier? Yes.

What was the hour at which it was generally put out? It might be from 9 to 10 o'clock, or later.

How many sofas were there on board the pelagres? Four.

Do you know in what part of the ship they were placed? Two were lashed together in the Princess's, and two in the Countess of Oldi's cabin.

Was there afterwards any alteration made in their situation? The Countess sent one out of her cabin.

Where was it sent to? It was occasionally on deck during the first part of the voyage, and always after we reached Jaffa.

Do you mean that it was beneath the tent? Yes.

What was there besides the sofa beneath the tent? An English travelling bed.

Do you know whether there was any communication open between the tent and the part of the vessel below? There was a ladder which went down into the dining-room.

EARL GREY moved the adjournment, as it was now four o'clock.—Adjourned.

## House of Lords,

WEDNESDAY, OCTOBER 11, 1820.

Immediately after the House was called over, the Earl of Lauderdale moved for certain accounts relative to the revenue and finance for the years 1819 and 1820.—Ordered.

A conversation arose about the heat of the House.

The LORD-CHANCELLOR said he was for his part, most desirous that the windows should be kept open to ventilate the House. In the course of yesterday he directed the windows to be opened, but it appeared that the officer had no sooner executed that order than they were shut by *somebody*. He wished to know whether it was their Lordships' pleasure to keep open the windows or not; because, if it were desired that they should be open, he would station one of the officers of the House, in the gallery, to take care that this unknown *somebody* should not close them.

### HER MAJESTY'S CASE.

The Counsel being called to the bar, the adjourned proceedings of yesterday were resumed.

LIEUT. HOWNAM'S Examination continued by MR. TINDALL.

You were asked yesterday about a communication between the tent and the part of the ship below the deck: I beg to know whether that communication was open by night and by day? The ladder stood constantly there.

Have you had any opportunity by going there, of ascertaining whether it was open or not by night? I have.

State on what occasions, and what has happened? I have, not knowing that her Royal Highness was in bed, gone up that ladder to go on deck, and did not find it shut.

Was the light out? I imagine it was.

Was the tent single or double? It was the awning of the ship.

Does its being the awning of the ship imply that it was a single tent? It was single, with the exception of another piece added, so make it complete.

That piece being put on, was it double? No.

I wish to know whether, when the two pieces were down, the one was exterior to the other? No, there was one only.

Have you any means of knowing whether the opening of the tent was on the outside, or whether it was closed or not on the inside, so as to prevent the access of persons on board? I think it certainly opened from the outside.

What was the nature of the opening? It was such as all tents have; it was closed by the two parts being brought together.

Was the mode of entering by persons on the outside simply by drawing the pieces apart? I think so.

How near was the tent to the steerage? It was close aft to the mizen mast.

Within what distance of the steerage was it? It might be four, five, or six feet distant.

Was a great part of the crew on deck during the night? One part kept watch by night.

Was there a passage for the crew by one side of the tent from the after to the forepart of the ship? The tent occupied the whole of one side of the deck, and the other side was clear.

Did the duty of the crew render it necessary for them to go from one end of the ship to the other? Constantly.

You have stated that there were under the tent a sofa and a travelling-bed? Yes.

Do you know on which her Royal Highness reposed? On the sofa.

Do you know who slept on the travelling-bed? I do not know; I was never in the tent after night.

Do you know whether her Royal Highness reposed alone in the tent? I have heard that two reposed in the tent.

Some remark on this answer appeared to be made from within the bar.

Mr. Tindall said he did not object to it, and proceeded with the examination.

I am not speaking of what you may have heard, but I ask whether you know that her Royal Highness reposed alone in the tent during the night? I have not seen her in the tent at night.

Do you recollect whether, on the voyage by land from St. Jean D'Acre to Jerusalem, her Royal Highness reposed, during the day, dressed or undressed? I never saw her undressed.

Have you any reason to know whether it was the one way or the other? I never saw her during the day when she was reposing,

and consequently have not seen her undressed.

Have you ever happened to go into the tent of her Royal Highness immediately before resuming your journey? We always dined under the tent previously to our departure.

Am I to understand that you do not know whether her Royal Highness reposed dressed or undressed during the journey? I do not know whether she was undressed during the journey.

Speak to the belief you have formed? I never saw any clothes on the sofa in the tent.

This is with respect to the journey by land that we have been speaking: now, as to the tent in the ship, do you know whether her Royal Highness was dressed or undressed when she reposed on it? I never saw any bedclothes on the sofa.

Do you recollect on any occasion an accident occurring in consequence of the sea breaking into the tent? I do.

Be so good as to describe the nature of that accident, and what you observed?—There was a violent squall, a great sea drove over the quarter. Her Royal Highness came down below to sleep.

Were you called up immediately?—I was.

As you were going on deck did you see her Royal Highness coming down?—I did.

Upon that occasion was she dressed or not?—She was dressed.

Did you at that moment observe any body with her Royal Highness; any body handing her down?—I think I saw Bergami and Mr. Flynn.

Was Bergami at that time dressed or undressed?—He was dressed.

Do you recollect during your voyage a bath at any time being taken by the Princess? I recollect she did take baths.

When the baths were taken by her Royal Highness, of what description was the tub she used?—It was a common bathing tub, made by her Royal Highness's direction.

I wish to ask you whether the tub was of such a size that it could be put into the cabin?—I do not think that possible.

During the time you were on board, have you ever seen her Royal Highness sitting on a gun with Bergami?—Never.

Did you ever see them sitting on a bench with his arm round her Royal Highness, or her arm round him?—Never.

Did you ever see the one kiss the other?—Never.

Did you ever see any impropriety or indecency of conduct on the part of the one towards the other?—Never.

Did your duty frequently carry you on deck?—It did, but the management of the ship was chiefly in the hands of Captain Flynn.

In point of fact, whether your duty called

you or not, you were generally on deck during the day?—I was.

Do you recollect at any time Bergami dressing himself up in a particular way with pillows?—I do.

State what gave occasion to that circumstance?—It was occasioned by the English Consul at Jaffa, who came on board in an embroidered Greek robe, a gold laced hat, and a gold headed cane.

Was the Consul a pompous figure?—He was.

Do you remember a person of the name of Mahomet on board on your return from Jaffa?—I do.

Do you recollect any dance being performed by Mahomet? I do.

Can you remember the occasion of that dance?—It originated in a sort of quarrel between the Arab and the Doctor. Mahomet was unwell, and the doctor wished to give him physic, which he refused to take. After that he used to laugh at the doctor, and dance before him.

Was the doctor angry at Mahomet for not taking the physic he prescribed?—The doctor reprovved him for not taking it, and that was the cause of the quarrel.

When the doctor appeared on the deck was Mahomet sometimes called for?—Yes, some one or another would call for him, and point out the doctor, and then Mahomet danced and cried out *dami dimi*.

The Attorney-General objected to hearing what was done by others.

Mr. Brougham said the witness was stating a fact, and all that accompanied a fact was evidence.

Did you ever observe any thing improper or indecent in that dance?—Nothing in the least indecent, any more than in the Spanish bolero, or the Negro dance.

Have you seen Mahomet performing the same *dami, dimi* on shore?—Frequently.

Was the dance he performed on shore the same as that you have described him to have performed on board? It was, exactly.

I think you landed at Terracina? No, I landed at Capo D'Aussa.

Before you arrived at Capo d'Aussa, did any one land at Terracina?—Yes.

What persons landed at Terracina?—I think they were Bergami, Cameron, and Theodore Majochi.

Was the vessel bound to perform quarantine?—We were not then in port, but still at sea.

Would the vessel, at the time of your landing, have been bound to perform quarantine? We had already performed quarantine at Syracuse and Messina, but in all probability we should still have had to perform quarantine at any other port, as we had not finished our quarantine at Messina.

What was the reason of those persons being landed at Terracina? To obtain refreshments and pratique, her Royal High-



ness being very much fatigued and indisposed in consequence of having been so long at sea.

In point of fact, was her Royal Highness in a state of great fatigue and exhaustion at that time?—She was very much fatigued.

Do you recollect, at the time those persons put off in the boat for Terracina, who was on deck? Every body; her Royal Highness and every body.

In what manner did they take leave of her Royal Highness?—They kissed her Royal Highness's hand, as they used to do in a respectful manner.

Did all the three persons you have mentioned kiss her hand?—I think they did.

Now I put to you whether Bergami did or did not kiss her Royal Highness on that occasion?—What! her face?

Yes, her face?—No; he certainly did not.

After the long voyage, as it had been called, I believe you returned to Villa d'Este?—Yes.

Did her Royal Highness, during her stay at the Villa d'Este, go to the Barona? After staying some short time she went to the Barona.

What size of a house was the Villa Barona? Was it large, or a moderate sized house? It was a small house, given by the Princess to Bergami.

Was it a house in which any large fete could be given? Oh! no.

What was the nature of the entertainments given at the Villa Barona? There were no entertainments but for the amusement of the farmers' families and her Royal Highness's household.

Were they given in the carnival time? Yes.

Did you ever see the wives as well as the daughters of the persons who attended the entertainments present? The eldest daughter was married.

I am not speaking of any particular family; but did you observe that the visitors brought their wives and daughters? I have seen the wife of the Chevalier Tomasia, and his daughter, present. The wife of the Baron — and the wife of Professor Mochetti.

What was the Chevalier Tomasia? He was the prefect of Como.

Were the other visitors persons who resided in the neighbourhood? Yes, with the exception of the Professor. They were inhabitants of Como.

Do you recollect whether the clergyman of the place used to attend? I have seen him frequently present; but I cannot say whether he came to the dance.

You mean to say you have seen him frequently visiting her Royal Highness? Yes.

Having mentioned the dances, can you say whether her Royal Highness was constantly in the dancing-room during the entertain-

ments? She was not constantly. She remained in an adjoining room, and came in occasionally.

Did you partake in these dances? Always.

Did her Royal Highness retire before the dancing was finished? Yes.

When you were present, did you ever see any thing indecent or indecorous in the conduct of the persons present? I never did.

Do you recollect a river called the Brescia, near the Villa d'Este? I do.

What is the nature of that river? It is quite a torrent.

Is it ever dry, or with very little water in it? It has certainly sometimes very little water. When it rains it runs with great rapidity.

Was it a place in which people would usually bathe? I should think not.

Did you attend or accompany her Royal Highness on her journey into Germany? I did.

At what period? In April, 1815.

Were you at Carlsruhe in the month of March, 1817? I was.

Do you recollect the circumstance of any person attending immediately on her Royal Highness, as she alighted from her carriage at that place? I have some recollection.

This was at Carlsruhe? I so understand the question.

In what capacity did you yourself serve at that time? I was sometimes called chamberlain.

When did you first assume that character? I cannot remember the precise time; I served undoubtedly in that office, and at the suggestion of the Baron Diendi.

Where did her Majesty dine there? I can hardly say, but I think it was at the Grand Duke's.

Did she afterwards proceed to the town of Charlitz? She did, on her journey.

Can you recollect the various stages of that journey? In some degree.

Name the place of your first stop on that journey on the confines of the Austrian and Italian territory? I cannot name the place at this moment.

Was there any particular occasion which produced a stop? I think we were questioned on one occasion? It was as regarded our passport, and I myself was obliged to go back.

Do you recollect any particular occasion when the Baron Bergami and the Count Vassali deviated from the route? I cannot charge my memory with the circumstance at this moment.

Did they at any time quit the retinue of her Royal Highness in the course of the journey? I believe they did on one occasion leave the carriage of her Royal Highness.

At what period of the day was that? It was not during the day exactly; it was, as

well as I can remember, at about two o'clock in the morning.

Was this on the road to Trieste? It was.

Was her Royal Highness received at Trieste by persons of distinction? By all the persons of distinction who resided there.

Can you name any of them? The deputy-governor, the governor himself being indisposed.

Who also received her Royal Highness at Trieste? Most of the persons of distinction who resided there.

How were the nights passed there? Her Royal Highness passed but one night at Trieste.

How was that night passed? Her Royal Highness went to the Opera.

Do you recollect that circumstance distinctly? I do.

Is there any circumstance which assists your recollection in that particular? I wrote a letter that evening, which at present assists my recollection of the circumstance.

By whom was that letter addressed, and to whom? To a lady whom I have since married; and I have just said that I myself wrote it.

Had it the post-mark of Venice upon it? I believe so.

Have you any recollection with regard to the date of the letter? It was dated, I believe, in the year 1817.

What is the length of the journey between Venice and Trieste? I cannot exactly say, but I recollect our stopping on the way.

What was the reason of your stopping? I believe it was on account of some accident that happened to the carriage of her Royal Highness.

Was the place at which you stopped called Monte-Ferra? It was a village of that name, as well as I can recollect.

Do you remember meeting a gentleman at that place, of the name of Ompteda? I certainly did see the Baron Ompteda at that place.

Was he then in the constant habit of visiting her Royal Highness? He was.

Had he been previously so accustomed? Yes, certainly.

At Naples? Yes.

At Genoa? Yes.

Did he dine occasionally, or only call to pay his respects? I recollect his dining.

Was Theodore Majochi, on any of these occasions, a servant in attendance? Yes, he was.

Did the Baron Ompteda dine at the table of her Royal Highness whilst her Royal Highness was residing at the Villa Villani? He did.

Did he stay late on any of those occasions; did he, I mean, stay over night? He did.

Was there a room in the household of the Princess which was commonly regarded and

called the room of the Baron Ompteda?—There was.

Was Majochi then in service? He was.

Have you ever held any conversation with Theodore Majochi on the subject of the Baron Ompteda, or of the capacity in which he appeared to be acting? I believe I have had conversation with him on that subject.

In the course of your travels or voyages with the Princess of Wales, had you any means of observing the usual state of the beds? I may have had opportunities of thus observing.

What were the directions that you received at any time from her Royal Highness on that subject?

The Attorney-General submitted to their Lordships that this was not a question which could be regarded as material in any point of view: it was impossible to judge as to where the examination would stop if such questions were put to the witness. Undoubtedly every question was admissible that referred to the conduct of her Royal Highness; but any particular inquiry as to directions that she might have given on some particular occasion did not seem to partake of that materiality.

Mr. Tindall contended that the question was admissible as preliminary to evidence of a more distinct sort, as perhaps essential to the confirmation of some fact that might subsequently appear.

The LORD CHANCELLOR was of opinion that the question was of importance, but that it was advisable to frame it in a different way.

#### *Examination continued.*

Well, then, in consequence of any thing that occurred at that time, or of any directions which you received from her Royal Highness, did you do any thing, as regarded the Baron Ompteda? I called him out.

Did you conduct yourself afterwards towards him in any peculiar way? I saw him afterwards at Rome.

Did you then do any thing in relation towards him? I desired the servants not to molest him.

Was Majochi at that time one of the servants? He was, at least I am almost positive that he was.

Do you recollect her Royal Highness's visiting her servants occasionally, when they happened to be sick? Yes, I can remember some circumstances of that description; she did it frequently.

Did you meet, at that time, with any servant of the name of Camienti? I recollect him.

What was his complaint, or his supposed complaint? I cannot distinctly recollect.

Can you distinctly recollect any occasions when her Royal Highness visited her servants when in bad health? I can recollect some such occasions.

How was her Royal Highness received at the different courts where she appeared during the course of her travels? In the usual way, and according to her rank.

What was her own demeanour? Filled with majesty and grace.

How was she ordinarily received? With all due and proper attendance.

Do you remember her Royal Highness travelling from Rome to Ancona? I do.

Did you accompany her upon that journey? Yes, I accompanied her upon that journey.

Who was the courier then employed? I can hardly recollect exactly; but I believe it was Carlo Forti.

Did her Royal Highness ever make an excursion, whilst at Rome, to a village in its neighbourhood, called Sinigaglia? I can remember that she did so.

In what sort of carriage was it that she made the excursion? I cannot readily describe it.

Was it in a landaulet? In a vehicle of that description.

By whom was she then accompanied? By the Countess Oldi and the Countess Schiavini.

Was any person taken ill during the journey between Rome and Ancona? Yes, certainly; one of the attendants was taken ill.

Were you yourself in the party to Sinigaglia? I was.

Was it the only journey taken by her Majesty between Rome and Sinigaglia after the late King's death? It was.

Who then acted as courier, or postilion? There were two, but the acting courier was, I think, Carlo Forti.

Was a person named Sacchi taken ill during that journey? Sacchi was taken ill.

Had any accident happened to him from a horse? He was hurt; I remember the circumstance; he received a hurt as he left the post-office.

How long have you been, on the whole, in the society of her Royal Highness? I was first introduced to her Royal Highness in the month of April of the year 1815, and I continued in her society till the year 1818.

During that period did you observe any thing improper, indecent, or degrading to her station, in the conduct of her Royal Highness? No.

Not towards Bergami? No, never.

What is the salary that you received for being in attendance on her Royal Highness, or as being in her service? Two hundred pounds a year.

Is that allowance still continued? It is.

*Cross-examined by the ATTORNEY-GENERAL.*

I believe you are a lieutenant in the navy?

How long have you been a lieutenant in the navy? Since May, 1809.

How long were you in the navy before you were made a lieutenant? Six years.

I believe your father was in the service of her Royal Highness? He was.

In what capacity? As a page.

How long did he continue in that service? How long he was in the service of the Princess I do not know; but he was almost all his life in the service of his present Majesty or of the Princess Charlotte.

I believe her Royal Highness interested herself about your promotion? Very much.

Through her Royal Highness's good offices you were promoted to the rank of lieutenant? I was.

When was it you joined her Royal Highness's suite? In April, 1815.

At Genoa? Yes, at Genoa.

In what capacity? I don't know exactly in what capacity, but I was given the salary of an equerry, as I am told.

You don't know then, in what capacity you were in her Royal Highness's suite? I did not know at the time, except the conviction I had that I was an equerry.

What situation did you subsequently fill in her Royal Highness's suite? None.

How long were you at Genoa before her Royal Highness quitted it for Milan? Six weeks.

Bergami was a courier at that time?—He was.

And was dressed as a courier? He was.

How soon after your arrival at Milan was her Royal Highness left without any English Lady of Honour? Her Royal Highness was left in that situation about ten or twelve days after our arrival at Milan.

How soon after her Royal Highness's English Lady of Honour left her did Madame Oldi come to her? A very short time after; one or two days probably.

Before the Countess of Oldi came did you see Faustina and the little Victorine at Genoa, in her Royal Highness's family? They came to Genoa with the child; but I did not know they were in the family.

Did they not live in the family? I never saw them in the family at Genoa. I have seen them by hazard in the garden.

How often did you see them by hazard in the garden? I might have seen them once or twice.

In the garden belonging to the house? Yes.

Do you not know they afterwards lived at Genoa? Yes; I know they lived there.

In the house of the Princess? Yes, in the house of the Princess.

Was the Princess in the house? She was.

Did the mother of Bergami come to the house of the Princess at that time? I think she came with the child.

Did she lodge in the house of the Princess at Genoa? Yes, to the best of my recollection.

Did not Louis Bergami also come into the family at Genoa? He was there when I arrived.

What situation did he fill in the family at that time? That of a page.

Do you mean to say that he was an upper servant at that time? He was an upper servant.

Did he wear a livery? Yes, a sort of uniform rather than a livery.

You have stated that you attended her Royal Highness in the tour to Mount St. Gothard? I did.

Did not Bergami accompany her Royal Highness on that occasion as courier? He was dressed like a courier.

Did he not accompany her Royal Highness on that occasion as courier? He was dressed in a courier's dress, but he then rode in the carriage.

In what carriage did he ride, and with whom? He rode in an open calash; with whom I cannot say.

Was it not with Hieronymus? I think it was.

Was not Hieronymus the other courier at that time? Hieronymus did travel occasionally as courier; his regular situation was *maitre d'hôtel*.

Had not Hieronymus a courier's dress on? He had.

Then, Sir, Hieronymus and Bergami, both having couriers' dresses on, travelled together in the same carriage? Both.

In what month was this tour made? I think in the month of August, 1818? Yes.

Now, Sir, in the course of that tour did not Bergami dine with her Royal Highness at Bellinzona? I think it was at Bellinzona where he dined with her Royal Highness.

Who dined with her Royal Highness besides Bergami? There was a professor, Mochetti, who accompanied her Royal Highness, and a man who was living in the mountain; I don't know what he was.

Was Bergami at that time dressed as a courier? He was.

Did you dine with her Royal Highness on that occasion? I did.

And remained at table during the whole of the dinner? I did.

You have said, Sir, that her Royal Highness occasionally dined with Bergami, when he was in his courier's dress? After he began to dine regularly, he never appeared in his courier's dress.

When did he begin to dine regularly? About the month of September, I think, he left off his courier's dress, I cannot speak to a particular day.

Did not Bergami dine with her Royal Highness at Lugano? That was on the return from Mount St. Gothard.

Did he not dine with her Royal Highness at Lugano? I think he did.

Was he not then courier to her Royal Highness, as he had been in the former part of the journey? was it not a part of the same journey? Yes.

Do you remember any other place, in the course of that journey, where they dined together? No, I do not.

Did they not dine together at the Devil's bridge? I rather think they did.

On those different occasions, on the same journey, when Bergami dined with the Princess, was he not in the dress of a courier? He was.

I believe, when you were at the Villad'Este, Mr. W. Burrell left her Royal Highness? Mr. Burrell left at the Villa Villani.

That was before you went to d'Este? It was.

I believe Mr. Burrell was not on that journey to Mount St. Gothard? He was not, Nor Dr. Holland? Dr. Holland left at Venice.

Then, were there any other English gentlemen with her Royal Highness, except yourself, on that tour to Mount St. Gothard? None.

When you were at the Villa d'Este have you not frequently seen her Majesty and Bergami walking together? I have.

I mean before you sat out on the voyage? On the long voyage.—yes.

Have you seen them together in a canoe on the lake? I have seen them together in a small boat.

Was any other person with them? The boat was not large enough to hold a third person.

When you have seen them walking together, have you not observed that they were walking arm in arm? I have so seen them at that time.

At the Villa d'Este? Yes; and I have seen her Royal Highness walk with other gentlemen.

Now, Sir, you have stated, that, during the whole course of the time you have been with her Royal Highness, you saw nothing improper, indecent, or degrading to her situation, in her conduct towards Bergami? I have.

You have seen her Royal Highness dining with Bergami, when he was a courier, in his courier's dress; you afterwards saw her walking with him at the Villa d'Este, arm in arm; you also saw them go out alone, in a boat, together; and you have stated that Bergami, after a certain time, dined regularly with her Royal Highness: do you think this conduct was, or was not, degrading to her Royal Highness's situation? I never saw her Royal Highness walk arm in arm with Bergami till he began to dine regularly with her.

You must perceive that is no answer to my question. I beg to put it again, whether

you consider that which you have stated as degrading to her Royal Highness or not? I do not.

Now, Sir, you have stated that you don't recollect seeing her royal Highness walk arm in arm with Bergami before he dined regularly with her. I ask you, on your oath, whether you did not see them walk arm in arm during the journey to Mount St. Gothard? I do not recollect.

You do not recollect? I swear I do not recollect it.

Do you swear they did not? I think, to the best of my recollection, that I did not see them.

You have said that you did not consider the conduct you have described as at all degrading to her Royal Highness; have you never represented to her Royal Highness that it was degrading for Bergami to dine with her? I never did.

Did you never desire her Royal Highness not to admit Bergami to her table? Not to my recollection, I did not.

Nor any thing to that effect? Nor any thing to that effect.

Then you never entreated her Royal Highness not to admit Bergami to her table? I never did.

Then, if you never did entreat her Royal Highness not to admit Bergami to her table, you could never have represented to any person that you had done so? I don't think I ever could.

I don't ask whether you could or not, but whether you did or not, state that you entreated her Royal Highness not to admit Bergami to her table? I am confident I did not.

You are positive you never did? I am positive I never did. I feel convinced I never did.

Have you never stated "that you entreated her Royal Highness, on your knees, with tears in your eyes, to dissuade her from admitting Bergami to a seat at her table, without effect?" Never: I never did such a thing.

I ask you not now whether you ever did such a thing; but whether you ever stated to any person that you had so done? I do not think I ever did. I have no recollection of the fact. I never did so.

If the fact never happened, you can have no doubt you never did it? I can have no doubt.

Am I to understand you now, Sir, to say, that you never made such a representation to any one; I will read again the words:—Did you ever say "that you entreated her Royal Highness, on your knees, with tears in your eyes, to dissuade her from admitting Bergami to a seat at her table, without effect?" I swear not to have the smallest recollection of the circumstance. I do not think I have done it.

I do not ask whether you actually entreat-

ed her Royal Highness on your knees; but whether you ever stated that you did, or used words to that effect? I have not the smallest recollection of ever having stated such a thing.

Will you swear that you have not? I swear, to the best of my recollection, I have not.

You swear to the best of your recollection: will you undertake to swear positively one way or the other? I swear as positively as I can. I have no recollection of the fact. I have no recollection whatever on the subject.

Will you swear that you have not made this representation? I will swear as I said before, that I have no recollection of the fact. I cannot swear to a thing I do not recollect.

You have already sworn that the fact was not so; that you did not entreat her Royal Highness not to admit Bergami to her table: can you have any doubt, then, that you never said you had done so? I have no doubt that I never said so: at least, I have not the smallest recollection of the fact.

Were you on board the Leviathan? I was.

Do you know Captain Briggs? I do.

Now, Sir, I ask you, upon your oath, whether you ever stated this fact to him? Upon my oath I do not recollect the circumstance.

Will you swear that you did not state this fact to Capt. Briggs, "that you entreated her Royal Highness, on your knees, with tears in your eyes, to dissuade her from admitting Bergami to a seat at her table, without effect?" I have not the smallest recollection of having stated that to Capt. Briggs.

Did it not happen on the day when the Princess came to visit Capt. Briggs? and did you not complain that she made Bergami her companion? (This question was very imperfectly heard below the bar.) The witness answered—I do not recollect saying any thing of the sort to Capt. Briggs.

Will you swear that you did not? I will swear that I have no recollection of it.

If such a circumstance took place, would you not recollect it? It is such a circumstance as, I think, I should recollect.

Why, if the fact be true, can you have any doubt that you would recollect it? and if not true, can you hesitate to swear that it did not take place? It is some years ago, and I cannot recollect the time.

You have already sworn that the fact of your having entreated her Royal Highness did not take place; would you state it to have taken place if it had not? The fact is not true. I did not do it.

If it were not true, could you have represented such a thing to any person? I do not recollect it. I do not think I did.

Have you any doubt on it? I have not.



Am I to understand that you will not swear that you did not state to Capt. Briggs what I have repeated? I will not swear to things I have not any recollection of.

What do you believe? Do you believe you stated it or not?—I don't believe I did.

Then you will swear you do not believe that you did state this to Captain Briggs: but you will not say positively that you did not? Am I to understand that as your answer?—Yes.

How long were you on board the *Leviathan*? About three weeks.

Where did you leave Bergami's mother and sister before you went on the long voyage?—I think the Villa d'Este.

How was the mother addressed in the family of her Royal Highness? what name was given to her? She was called Madame Livia and Nona: these were the words used in the family.

Do you mean to say that she was called Madame Livia in the family before the long voyage?—I cannot call it to my recollection. I do not think I ever spoke to her more than once or twice. I don't know what she was called at that time.

Did you ever hear her Royal Highness call her Nona?—Frequently.

After Mr. W. Burrell left, when you were at the Villa d'Este, was not her Royal Highness in the habit of amusing herself in the evening with the servants? Frequently.

Did her Royal Highness join in those games or amusements?—Yes, I have seen her play at the game of (*colin maillard*) blind men's buff).

Were there not several games at which they played? Yes, there were many *petit jeux*.

I ask you were those games played before Mr. W. Burrell left her Royal Highness? I do not recollect.

Have you any doubt that they were not? I rather think they were played when he was there; but I am not sure.

He left at the Villa Villani?—Yes.

And I speak of the Villa d'Este?—He was not there. But the same games were played at the Villa Villani as at the Villa d'Este.

Do you mean to state that Mr. Burrell joined in the games that were played there in his presence? I do not recollect the fact of his being present.

Had Bergami ever dined with the Princess before Mr. Burrell left her Royal Highness? No.

Then, was there any other English Gentleman in her Royal Highness's suite, except yourself, at the time Bergami began to dine with her Royal Highness?—I was the only English person in the suite of her Royal Highness.

Were Bergami and his brother Louis present at those games you have been talking of? Yes.

Was Faustina the sister of Bergami?—No; I don't think she was.

Did you ever see her Royal Highness perform in a theatre at Villa d'Este? Yes.

Did not her Royal Highness act the part of Columbine, and Louis Bergami Harlequin? No, I do not recollect that; I have no recollection of the several parts, but it was before more than two hundred persons.

Did Louis Bergami perform any part? Yes; it was on a stage, and all the parts were performed by her Royal Highness's household, but I do not recollect the several parts.

Was Louis Bergami one of the household who performed? Yes.

Do you not recollect that her Royal Highness acted the part of Columbine? Upon my word I cannot charge my memory; I have no memory of that circumstance.

Do you mean to say that the conduct of her Royal Highness was such, that you have no recollection of it?—I have no recollection whether her Royal Highness performed the part of Columbine: she may or may not have done so; I do not positively remember.

Do you remember any other evening when there was a dance? (We could not hear the answer.)

How many persons were present? were there 250? There were,

Was her Royal Highness there? Yes.

With whom did she dance? I do not recollect with whom.

Do you mean to say that her Royal Highness did not dance with Louis Bergami? I do mean to say that I do not recollect her Royal Highness dancing with Bergami. She may or may not have danced with him; I do not recollect it.

Was not one of the pieces a pantomime? Yes, I think it was.

Who performed the part of Harlequin? I have seen Louis Bergami in that dress.

Having now recollected, then, that Louis Bergami was dressed as Harlequin, do you not recollect that her Royal Highness performed the part of Columbine? I do not recollect her Royal Highness performing the part of Columbine: the circumstance is not sufficiently impressed on my memory to say that it was so.

You do not recollect that it was not so? I have no recollection the one way or the other; I do not recollect it.

Do you remember any part performed by her Royal Highness that evening? I think she performed the part of an automaton?—(Laughter.)

What do you mean when you say that you think her Royal Highness performed the part of an automaton? It is so long since that I do not recollect the history if it. It was something respecting a man who wished to sell an automaton; which was a woman, in fact, that could wind up any thing. (General laughter.)

Was the Princess, her Royal Highness, the automaton? She was.

Did Bergami perform the part of the person who wanted to sell the automaton? No; I think it was the Chevalier Tomasia.

And who was the purchaser? The professor Mochetti.

Did Bergami perform any part at all? I think not.

Do you remember her Royal Highness performing a part in any other representation? (We could not hear the answer.)

Cannot you recollect her Royal Highness having performed some part with Bergami? No; I cannot recollect what part she performed.

Do you not recollect Bergami having performed the part of a sick person? No; I remember Bergami performing the part of a fiddler another time.

Did not her Royal Highness then perform the part of a milk-maid, or some person in low life? I do not recollect what part her Royal Highness performed; but there were more than 200 persons there.

You do not recollect her Royal Highness performing the part of a milk-maid that evening, or any other part? No, I do not recollect the fact.

Was there any other evening when these representations took place, or do you recollect only that one evening? (We understood the witness to answer this question by saying, I recollect only one evening.)

Did Bergami perform any other part that evening besides dancing? I do not recollect.

Did he not perform the part of a physician, and her Royal Highness that of a sick person? I do not remember; I have a recollection of something, but I cannot charge my memory with the precise facts.

You have said that you accompanied her Royal Highness on her long voyage: do you remember, before going on the long voyage, a fete given by her Royal Highness? Yes.

Where was that? At the Villa d'Este.

Was not that day kept in honour of Bergami? No, I think not.

Was it not St. Bartholomew's day? I do not remember whether it was St. Bartholomew's day, it is so long ago. I recollect the fete was on some great day.

Do you not recollect that it was in honour of Bergami? No: I think it was not. I think it was in honour of her Royal Highness taking possession of the Villa d'Este, for she had formerly lived at Villa Villani.

How long was that before your departure? It was before the 14th of November, but whether a month or not I cannot recollect.

Now, Sir, whether the fete was on the day of the theatrical representation or not, was it not on the 24th of August, St. Bartholomew's day?

I cannot recollect whether that was the day or not.

Is there nothing to bring it to your recollection whether it was on the 24th of August? On the 4th of August we went on our journey to St. Gothard. In the early part of August we were not in possession of the Villa d'Este.

Will you swear that there was no fete given at the Villa d'Este before you took possession? I do not recollect that there was.

Do you recollect accompanying her Royal Highness to Venice? Yes.

Did you remain there during the time her Royal Highness remained? Yes.

Before her Royal Highness went on the long voyage, was Bergami raised to the rank of Baron? No.

Was he raised to that rank before leaving Sicily? He was.

And a Knight of Malta? Yes.

When you were on board the polacre, do you remember where Bergami first slept? where was his sleeping-room? I think it was in an after-cabin, a small cabin, and on the servants' side.

What sized vessel was the polacre? About 260 tons.

English Tons? Yes.

What was the width at the stern? About 18 feet, or not so much. I may be wrong, I never measured it.

Was the cabin in which Bergami slept next the dining-room? It was.

Who slept in the cabin next him on the starboard side? I think it was the Count Schiavini.

Who slept in the next cabin to him? I think Mr. Wm. Austin.

Who next to William Austin? I think Cameron.

Who slept on the other side of the larboard side? There were the two maids.

Who next? I had my cabin next.

Who next? Lieutenant Flynn.

Who next? Hieronymus.

After you left Tunis, Bergami slept in the dining-room? Yes.

You took a journey from Tunis to Utica? Yes.

Where was it you slept on the night of the day you went to Utica? At the younger Prince's, at Sabella.

Utica is itself in ruins? Yes.

How far is Utica from the house of the younger Prince's? Nine miles.

After going to the ruins of Utica from Tunis, you proceeded to the younger Prince's? Yes.

On the polacre, did you not observe that it had a tent? Yes.

On your return from Jaffa did not the Princess sleep on deck? Yes.

Was the tent then of the same size, or had it been more contracted before? and was it enlarged on occasion of the return from Jaffa? I have no recollection of that.

Do you recollect one way or the other?—I think it always extended to the side of the vessel.

Was not the passage to the dining-room on that side?—Yes.

Are you quite sure of that?—I am quite sure.

Are you quite sure that the tent always covered the whole of that side?—I have no recollection, I am quite sure, of any enlarging of the tent.

How wide was it? It was from the hatchway to one side.

How wide was that? About sixteen feet altogether.

You said there were a sofa and a bedstead? I did.

How was the bedstead placed in reference to the sofa? They were at right angles.

How near? They were three or four feet apart.

How near were the nearest parts? I mean that the joining angles were three or four feet apart.

You have stated that, when off Caramania, an accident happened? Yes.

Her Royal Highness went then and lay on deck? Yes.

(We did not hear the question next asked, but we understood the witness to answer)—William Austin complained of his room; the rain came through, and then to mine. I was obliged to make a hole for air in my cabin.

Whereabouts on deck did her Royal Highness then sleep? I think on the star-board side, between the hatchway and side.

You have said that you saw Bergami hand her Royal Highness down: do you recollect where he slept on that night? I do not think he lay down at all; I do not recollect any thing further of him than only handing down her Royal Highness.

You have no recollection of seeing Bergami afterwards, any where? No, I have not.

Did you not see him lying down on the deck after her Royal Highness slept there? No, I do not recollect that I did.

Where did Bergami sleep on the return from Jaffa? I do not know where he slept.

Have you never seen him on deck by day or night? I have seen him by day under the tent, as every body else.

Where did you see him? on a bed? I have seen him sitting either on a chair or that travelling bed.

You have stated that Bergami slept first in a cabin, then in the dining-room: I ask you where he slept on his way home from Jaffa? I have not seen, and I do not know.

You have stated that you went up by the ladder, not knowing that the tent was closed: was that on more than one occasion? It was more than once.

Was the ladder connected with the dining room? It was.

At what hour was it? About ten or half-past ten; it was just before I went to bed.

Do you know who was under the tent then? Her Royal Highness the Princess.

Was any other person under the tent? I do not know: I did not see any.

Was it dark? Yes.

Did you see the Princess? No.

Did you see Bergami any where? I did not.

Did you, on that occasion, pass through the dining room where Bergami had slept on the outward voyage? I did.

Was there any light in it? I do not recollect that there was.

Where did De Mont and her sister sleep at that time? I do not know.

Do you not believe that Bergami slept under the tent? I heard he did, and I believe he did.

Now, whether it was St. Bartholomew's-day or not, that was celebrated at the Villa d'Este, 1813, I ask whether it was not celebrated on your arrival off Syracuse?

The EARL of LAUDERDALE rose to ascertain whether the answer to the question, whether the witness believed that Bergami slept in the tent, was not—"I believe Bergami did sleep in the tent?"

Mr. Brougham began to offer some observations.

The DUKE of CLARENCE—Let the witness withdraw. (Withdraw, withdraw.) The witness withdrew.

Mr. Brougham.—The witness unquestionably added to, "I heard that he did," "and I believe he did." The Attorney-General said, then, "I do not want what you heard." The witness had, in fact, given the same answer to his Learned Friend (Mr. Tindall).

Mr. Gurney, the short-hand writer, stated the answer to be, "I have heard that he slept under the tent, and I believe he did;" and added, that the Attorney-General certainly said, "I do not wish to know what you have heard; but I ask you as to your own belief."

The LORD-CHANCELLOR asked what correction of that was required.

Mr. Brougham said that he wanted no correction whatever of that.

A Peer observed, that he had certainly heard the Attorney-General say to the witness, "I do not want to know what you heard."

After a few other remarks, which were not distinctly audible below the bar, the witness was recalled, and the cross-examination continued by the Attorney-General.

I ask you again if you do not believe, that on the return from Jaffa Bergami slept constantly under the tent? I heard that he slept under the tent, and I believe he did.

Don't you believe he slept under the tent? I have said so already.

And, believing that, I ask you whether you think that was degrading or not to her Majesty? No, I think it was necessary that some one should sleep near her Royal Highness on that occasion. I heard that other people slept there too.

I don't ask you about that, but about your belief whether Bergami's sleeping there was, in your judgment, degrading to her Royal Highness's station? No, I never thought it was.

On your arrival at Syracuse do you recollect a *fete* on board the polacre on St. Bartholomew's-day? I recollect the sailors had a *fete* on board, and danced.

Have you any doubt that there was a *fete* on that occasion? I believe there was.

You say the sailors rejoiced on that day. Who regaled them? I know they rejoiced, but I don't know who regaled them.

You do not know who regaled them? No.

Who do you believe it was? I suppose it was Bergami.

Why do you believe Bergami did? Because, in those countries they always keep the day of their name as a birth-day.

Was this day kept in honour of Bergami? There were rejoicings on board, and every one keeps that day in Italy.

Were there any other saint-days kept on board the polacre? I do not recollect.

Was there any illumination at Syracuse on board the ship this night? I don't recollect.

Did not the sailors cry "*Viva Bergami!*" "*Viva la Principessa!*"? They might, but I do not recollect.

Did they not cry "*Viva il Cavaliere!*"?—They might have cried so; but I did not hear them; at least, it is not impressed on my memory that I did.

Do you mean to say that you heard no exclamations of the crew, while regaling themselves on deck? I may have heard exclamations, but none of them are marked on my memory sufficiently to enable me to say what they were.

Did you see Bergami and her Royal Highness that day on board the polacre? I saw them every day during the voyage, and that day as usual.

Did you see them that day walking on the deck? I saw them walking as usual.

In what manner were they walking? I do not recollect seeing them walking on that day precisely, more than another; but, if I saw them walking, it was on deck.

Did they walk arm in arm? They might.

Was that usual? Her Royal Highness could not walk the deck without the arm of somebody.

Were they not in port, on this occasion, at Syracuse? Yes.

Could she not then have walked the deck without the assistance of another person? I did not say that, on this occasion, she was walking with the assistance of any person. She might have walked alone, or with Bergami's arm. I cannot recollect. The thing was so usual, as to make no impression on my memory.

Was it so usual for them to walk arm in arm as to make no impression on your mind on this occasion?—

Mr. Brougham objected to the question, on the ground that it was assuming that they had been seen walking arm in arm on this occasion, whereas the witness had more than once declared that he had no recollection of such a circumstance. He had no objection to the question as a general question with regard to what occurred at other places; but the witness having said that he had no recollection of their walking in this manner at Syracuse, it must not be assumed that he had seen them walking arm-in-arm at that place.

The Attorney-General said, that the witness admitted having seen them walking arm in arm, and he only asked him now if that was so usual an occurrence as to make no impression on his memory?

EARL GREY thought that the question, shaped as it now was, assumed the fact of their having been seen walking arm in arm on this occasion. It ought to be put generally, and not with reference to the manner in which they walked at Syracuse.

The Attorney-General thought, that on cross-examination he had a right to put such a question.

The LORD CHANCELLOR thought there could be no objection to the question if its meaning were shaped in a different way, so as not to assume that as proved which the witness had not proved.

#### Cross-examination resumed.

I ask whether it was so usual a thing for Bergami to walk arm in arm with her Royal Highness, that, if done at Syracuse, it would have made no impression on your mind? It would not.

During the voyage and journey to the East, was there any additional order conferred on Bergami? I don't know whether it can be called an order. The thing was spoken of by her Royal Highness many months before she set out on the journey. She said she would make a little recompense to those who accompanied her, and give them some mark of distinction as a memento, rather than a recompense.

I asked you if there was any additional order conferred on Bergami? There was.

What was it? It was called the order of St. Caroline.

Was he one of the knights of this order? He was.

Was he the grand master of the order? I believe he was. It was so said in the diploma.

Was there any other order conferred on Bergami during that journey? Yes, the order of St. Sepulchre.

Do you know whether that order was purchased for Bergami? I have not the slightest idea. I don't think it was.

Was there any other person who received that order? There was; Count Schiavini and William Austin.

Were you present when that order was conferred on Bergami? I was.

Where was it? It was at a place called the Temple of the Resurrection, near Jerusalem.

In going to Jerusalem, did you repose under tents? We did.

Did you repose by day? By day.

You travelled by night? Yes, and reposed by day.

How many tents were there? There might be seven, more or less. I cannot say exactly.

Were there more than four? There were certainly more than four or five.

Who reposed in the tent with yourself? Lieutenant Flynn, in general; and the Doctor, I believe, and Schiavini.

Did you ever see her Royal Highness, on alighting from her ass, go to bed? I have seen her, on alighting, throw herself on a sofa in the tent.

Do you know where Bergami reposed during the day? No.

Do you believe he reposed under the same tent as her Royal Highness? I do not know; I never saw him do so.

I ask whether you believe he did?

Mr. Brougham said, he did not interpose here for the purpose of objecting to the question, but merely that their Lordships might make a note in their own minds, that he did not object to it, although he certainly had a right. He had not, however, the slightest objection to this question, and a thousand others to the same purpose; he was, on the contrary, only sorry that he had not put them himself.

*Cross-examination continued.*

I ask you whether you do not believe that Bergami reposed under the same tent as her Royal Highness? He may, or he may not; I do not know.

What is your belief? I dare say he did, but I do not know.

I ask you again if you do not believe that he did? I do not know positively, and I can only believe as far as I have knowledge.

I ask you as to your belief? He may, or he may not.

No. 45.

Did you see him in any other tent? No, I did not. I retired to my own tent when I came off my horse, and there I slept till dinner-time.

Where did Schiavini sleep? I think he slept in the same tent with myself; but I am not positive even that length.

Do you recollect where Hieronymus and Cameron slept? I do not. I have never seen them sleep.

You have stated that, in the course of the journey to the East, you were at Ephesus? I did.

You remember the coffee-house at which you slept? Yes.

Do you remember where the Princess dined? It was in a church yard, under the porch of a church; an old Mosque.

Where did you dine on that day? I think I dined there with her Royal Highness.

Will you swear that you dined there that day? I will swear that is the impression on my mind.

Where did you land on your return from the voyage? At Capo Lanza.

You have stated that at the Barona her Royal Highness gave some entertainments and dances, and that the daughters of some persons were present: who were they? They were the daughters of the agents of the farm.

How many were there of them? were there 3, or 4, or 5? There were 3, or 4, or 5, but I do not exactly remember the number.

Do you know the person who kept the public house at the village of Barona? No.

Do you know a person of the name of Christopher? No, I don't.

Do you know a person of the name of Jean Onge? No, I do not.

Were there many persons there of low life? I don't know whether they were of low life or not. There were farmer's daughters present; but whether there were others of low life I don't know.

How often were those dances given at the Barona? Some 4 or 5 times.

Do you know the daughters of that farmer? Only by seeing them there. That is all the knowledge I have of them.

On one of those occasions on which you accompanied her Royal Highness, you said you were at Charnitz? If that be the name of the barrier town to which I referred in my evidence, then I said so.

Mr. Brougham here contended that the witness had not said he was at Charnitz, but had merely stated, that if that was the name of a barrier town near the Austrian Tyrol, he was there.

The Attorney-General contended that he had admitted his being at Charnitz, and the short-hand writer read the following evidence from his notes:—

“At dinner, at the Margravine's, were

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you, on your way back to Capistrano, stopped at Charnitz? If that is the name of a barrier town near the Austrian Tyrol, we were. We got into that place, I think, about the middle of the day.

What was the cause of your being stopped?—We had been travelling on sledges on account of the snow, and not having passports, the men at the barrier would not take our word that it was the Princess of Wales that was travelling.

“Did this make it necessary for you to go back to Inspruck?—Bergami went back with Captain Vassalli to Inspruck, to get passports.

“Do you recollect the time of the return of Bergami and Captain Vassalli?—It was about one or two in the morning. It was very late. It was on the road to Venice.”

Mr. Brougham said it thus appeared that the witness had not said he recollected the name of Charnitz.

The Attorney-General.—I ask Mr. Hownam if ever he was at Charnitz?—I do not know if that is the name of the town you allude to.

You recollect Bergami and Vassalli going for a passport?—Yes.

And there was a great deal of snow on the ground?—A great deal.

So that they had great difficulty in getting through?—Great.

Were they not obliged when they set out from that town to cut a way through the snow?—They were.

Were there many persons employed for that purpose?—There were 20, 30, or 50, in different parts of the road.

What time was it in the morning that you set out from that place?—As soon as it was day-light.

What was the time of the year?—The month of March, I think.

Was it not near eight o'clock in the morning when you set out?—I cannot exactly recollect.

Was it not broad day-light?—It was day-light certainly, I think it was broad day-light.

Do you remember whether your baggage was stopped at the barriers or allowed to proceed to the inn?—Every thing was stopped; the baggage was on the carriages, and the carriages were stopped.

Did your baggage go on with you to the inn, or was it stopped at the barriers?—The inn was some hundred yards before you came to the barriers, we had to return to the inn, the barriers were beyond the inn.

Do you mean to say that you returned to the inn, and stayed there in consequence of the delay about your passports? Exactly so.

Do you recollect whether the carriages were unloaded that night or no? I have no exact recollection. I knew that I had not my baggage that night? I think they were not.

You have been asked about the journey of her Royal Highness from Milan to Rome by Ancona, and afterwards from Rome to Sinigaglia. I now wish to know how many carriages her Royal Highness had on that journey? I don't recollect the number positively, three or four, I think.

Of what sort were they? There was an English landau, an English landaulet, a German calash, belonging to Mr. William, and another calash made at Rome.

Where did you stop the first day on the journey from Rome to Sinigaglia? Did you not stop at Horticoli?—No, that was on the second day.

Did you travel by night or by day during that journey? We travelled by night, and stopped during the day time.

Did you not stop also at Lochera? I think we did: I recollect we did, because there are some mineral springs there.

Did you not stay the third day at Charno? I think we breakfasted there.

How long did you stay there? We stayed an hour or two, to the best of my recollection, but I cannot exactly say how long.

How far is Charno from Sinigaglia? One or two posts; about ten miles.

At what time did you get to Sinigaglia?—About one or two o'clock in the day.

Was it not later?—I cannot recollect the time precisely; it may have been later.

Was it not as late as five o'clock? I do not recollect, but I think that it was not.

Cannot you say whether it was two o'clock or five? I cannot.

Will you not swear positively that it was not so late as five? I will not undertake to say any thing positively about it, the circumstance is not marked in my memory.

Do you recollect whether you saw Sacchi whilst you were at Charno; I do not recollect that I did see him.

Nor whether Sacchi was ill there or not for a short time? No.

Did you not see him in bed there, in consequence of an illness which he had from taking something cold, some iced lemonade, or something else? I have not the slightest recollection of any such circumstance.

Do you not know in what carriage her Royal Highness travelled in her journey to Sinigaglia? I think that it was in the English landaulet; I am not certain that it was in the landaulet, but she almost always travelled in that carriage.

Was it not at that time very hot weather? Yes, it was the month of August.

And you travelled in the night to avoid the heat of the day? Exactly so.

Who travelled with her Royal Highness in the carriage? I rather think the Countess Oldi and Bergami.

Who travelled with you? As far as I can recollect, the two chambermaids and Count Schiavini; in going to Rome it was not so.

Where did the little Victorine travel? With her Royal Highness.

Did she travel the whole way with her Royal Highness? Yes. I recollect a circumstance that has impressed that fact in my memory. The child would not travel in our carriage, because in our journey through the Tyrol she had been upset in it, near Inspruck.

Notwithstanding that circumstance, will you swear that the child was never occasionally in your carriage? I don't recollect having ever seen her in it.

Can you swear positively that she was not in it? I cannot positively swear that she was not in it at all; but I will swear that to the best of my recollection she was not; she might have been in it, but I do not recollect any such thing.

Who travelled in the third carriage? Austria and Captain Vassall.

What sort of a carriage was it? A German carriage belonging to Mr. William.

What carriage were you in? The English Pandau, I think.

I have been talking to you of the journey from Rome to Sinigaglia. I am now going to talk of the journey to Rome. At Ancona did you see Louis Bergami? Yes.

Did Louis Bergami go with her Royal Highness from Ancona to Rome? I am not quite certain whether he did or not.

Did you see him there? Yes. He came back from Rome to Ancona.

And met you at Ancona? And met us at Ancona.

Did he not go along with her Royal Highness and her suite to Rome? That I do not recollect.

You are quite sure that you saw him at Ancona? I feel persuaded that I did.

Was there a fourth carriage in that journey? Yes; I travelled in the fourth carriage along with a Roman Captain of the name Laura.

You mean to Rome? Yes.

Did not Cameron and Louis Bergami go in that fourth carriage from Rome to Sinigaglia? I do not recollect.

Did not Cameron and Louis Bergami go from Rome to Sinigaglia as part of your company? Positively I do not know. Louis Bergami went from Rome to Milan once or twice.

Who went as courier from Rome to Sinigaglia? I rather think Carlo and Sacchi; they were the couriers to Rome.

Can you swear that you saw Carlo Forti on the road from Rome to Sinigaglia? I cannot positively swear that I saw either one or the other of them; there was no marked circumstance occurred during the journey to impress their presence on my memory; nothing that makes me recollect whether I ever spoke to the one or the other of them.

Do you remember your having, on the journey from Rome to Sinigaglia, any diffi-

culty at Pollugia on the stage after, about procuring post-horses? I do not.

Do you recollect that you were obliged to take the same post-horses on the next stage? That circumstance happened so often, that I do not particularly recollect it at that time.

Can you point out any place on that journey where it happened? No, I cannot; I mean to say that in the course of our travels it often happened.

In your journey to Rome? No.

You say that you do not remember seeing Carlo upon that journey; did you see Sacchi? My memory is not marked with the presence of either one or the other.

Will you swear that Sacchi did not ride by the side of her Royal Highness's carriage upon that journey? Not having seen it, I cannot swear.

How far was the carriage in which you travelled distant from that of her Royal Highness? The distance varied; sometimes it was more, sometimes it was less.

Will you swear that you did not see Sacchi on the journey from Rome to Sinigaglia? I cannot swear to a thing which I do not recollect.

Did you ever see the wife of Bergami? No.

Did you know any other of Bergami's family besides Louis Bergami? Yes; there were others in the family.

Who were they? There was Ragionari.

Who besides? Bernardo.

Was there not a person of the name of Francisco? Yes.

Do you know Faustina Bergami? Yes.

What relation is she to the Baron? His sister.

Do you know the countess of Oldi? Yes.

When did you first know that she was Bergami's sister? I heard of it shortly after she came to the house; but I did not hear of it at the time when she first came into her Royal Highness's service.

Do you know a person of the name of Martini? I have seen him.

Where? At the Villa d'Este.

When did Louis Bergami begin to dine at the table of her Royal Highness? Some short time after we returned from the long voyage.

Did Faustina dine with her Royal Highness? I never saw it.

Were there any other relations of Bergami in the family? Yes.

Was Pietro, his nephew, in the family? Yes.

Was Carlini, his other nephew? Carlini was in the family; but I do not know whether he is or is not his nephew.

What situation did Pietro and Carlini hold in her Royal Highness's household? Carlini was on the long voyage. I do not know what situation he held; he was a servant.

What situation did Pietro hold? I do not

know whether I am speaking of the right person, but I fancy that he was employed in the stables.

After your return from the long voyage, did not the mother of Bergami begin to be called Madame Livia? Not more so than she was before to my knowledge.

Had she ever dined at her Royal Highness's table before you went on that voyage? I don't recollect; she may or she may not; it is not marked in my memory.

Did she dine regularly at her Royal Highness's table at Pesaro? She did.

And Louis Bergami? Yes.

Did Bernardo ever dine at her Royal Highness's table at the Barona? I do not recollect that he ever did.

Not at the Barona? I do not recollect having seen him.

Having seen these relations of Bergami dine at her Royal Highness's table, I ask you, did you ever see the Baroness Bergami there? Never.

Neither at the Villa d'Este, nor at Pesaro, nor at the Barona? Neither at one nor the other.

How far is Barona from Milan? Two miles.

Then I am to understand that you have seen his mother, his brother, and others of his relations, dining at her Royal Highness's table; you never saw his wife there at any time or in any place? I never saw his wife.

How long were you in the service of her Royal Highness? Three years.

Did the Baroness Bergami never come to see her child at her Royal Highness's house during the whole of that period? I never saw her.

When you first joined her Royal Highness at Genoa, did you offer yourself to her service, or were you sent for by her? It was by her Royal Highness's command that I joined her.

Did you go to her from England? From England.

Where do you reside now? At No. 5, Bury-street, St. James's.

Have you not been frequently at Brandenburg-house lately? I have.

Almost every day, or every day? Not almost every day. I have not been there since Saturday. I have only been twice I came to England. Once I went to make my bow upon my arrival, and once again on Saturday last. These are the only times I was there.

Did you see the Count Schiavini there? I did.

Both times? The first time, I think, I did not see him; I am not sure: yes, I did see him both times.

How long have you been in England? I came last Friday week.

Were you in England before then? Twice before.

When? About a week before. I was about ten days at Rosen.

How long were you in England before you returned to your family? Five weeks.

The Attorney-General then said that he had no further questions to put to the witness.

The EARL of LIVERPOOL.—I really must submit that, after the long examination which the witness has undergone, the witness ought to have leave, if he desire it, to retire for a quarter of an hour, to obtain refreshment. (*Hear, hear.*)

The witness, however, declined the kindness of their Lordships, but, at the request of Mr. Brougham, he was accommodated with a chair.

#### *Re-examined by Mr. WILDE.*

You were asked, in one part of your cross-examination, whether Faustina was in the family, and, at another, whether she was in the house of her Royal Highness at Genoa; and you replied, in one case, that she was in the family, and in the other, that she was not in the house of her Royal Highness. How do you explain the difference between these two answers? When I said that she was not in the house, I meant to say that she was not in the household of her Royal Highness.

You have said, that at the Villa d'Este her Royal Highness joined in certain games, which you described. Were the whole of her household, or only the upper servants, allowed to join in those amusements? Only the upper servants; the footmen never did.

How many years ago is it that those games took place? It was on our return from the long voyage.

In the winter of 1816 or 1817? In the winter of 1816.

Then it is about four years since? Yes.

Have you any better recollection of the incidents, or the plot of the entertainments, which then took place, than that which you have stated? None in the least.

Do you recollect a doctor being taken on board at Tunis? I do.

Was it before or after that event that Bergami's sleeping-place was altered? It was after. The doctor did not exactly occupy Bergami's cabin. Schiavini and Austin came more aft.

After that alteration where was Bergami's bed placed? In the dining-room, within a screen.

You have stated, that on account of an accident, which you described, her Royal Highness was obliged to go below; you likewise stated, that when Bergami handed her Royal Highness down, you did not know where he went. I ask you, did he go into her Royal Highness's cabin? He could not have gone into the cabin without stooping to the ground, as the front was cut down; I cut it down myself.

Of what material was the front of the cabin composed? Of canvas and of plank.

You have stated that you believed Bergami to have slept under the tent; what was your reason for believing so? During the squalls which occurred whilst we were off the coast of Caramani, and which made her Royal Highness go below. Bergami told me that the sea came into the tent; now, he must have been in the tent to have known it.

Have you any distinct recollection of the dress which Bergami wore upon that occasion? I have not.

I don't mean that you should tell us what his dress was, but whether he was dressed or not? Oh, he was dressed, certainly.

Do you believe he was dressed every night when he was under the tent?

The Solicitor-General was astonished to hear such a question from his Learned Friend. He was astonished to hear him say, "Do you believe he was dressed?" to his own witness; and apprehended the question could not be put.

Mr. Brougham was no less astonished at the objection of the Solicitor-General.

The LORD-CHANCELLOR thought that, under the circumstances of the case, the question could not be put.

Of what nations were the crew of the polacre composed? Of Neapolitans and Sicilians.

I think you have stated that half the crew were upon the deck at night? Yes.

You have stated, in answer to my Learned Friend, that you thought it necessary that some person should sleep near the Princess, under the tent. I now ask you what, as you believe, was the ground of that necessity? It was never mentioned to me, but I never considered it otherwise than necessary; for the Princess to have been sleeping on deck by herself would not have been right at all.

Were you acquainted with the character of the different sailors who were employed on board the polacre, before you sailed? Not at all; I never had seen a single man of them.

Did her Royal Highness ever see them before? Certainly not; the vessel was hired at Messina, while she was at Catania.

You have stated that you have seen the Princess walking arm in arm with Bergami; have you ever seen her walking in the same manner with others of her household? Yes, she has walked so with me; I have seen her walking so with Schiavini, and with other gentlemen who have come to visit her at the Villa d'Este, and so forth.

You have stated that Bergami was made Grand Master of the Order of St. Caroline; do you know who were appointed the knights of that order? I was one myself, Flynn was one, so was William Austin, as well as Hieronimus, and, I think, Cameron. I think

Dr. Modatti was one also, in consequence of his coming as far as Naples with her Royal Highness; but he was not able to come on, by reason of his not getting his passport in time from the Austrian government.

Was he made an actual knight, or an honorary one? I don't know; it was only in consideration of his having been appointed to accompany her Majesty on that voyage, and his inability to proceed for the want of it.

Did the number of persons whom you have mentioned, exclusive of the doctor, compose—were they the whole of the suite who arrived at Jerusalem with her Royal Highness? I think so; I think they were the whole; I never heard of any body else, excepting the doctor; whom we took with us. I am not, at this time, entirely sure, whether he was one of them or not.

I want to know whether that order, such as it was, was conferred on all the suite who arrived at Jerusalem? No; only the persons I have mentioned.

Mr. Tyndall here observed, that he wished to put one question, for which he must crave the pardon of the House, as he ought, properly, to have put it to the witness upon his examination in chief.

The LORD-CHANCELLOR said, their Lordships would have no objection.

Was there any English sailor on board the polacre? There was.

What was his name? James Adams.

What became of him? I sent him from that place.

Have you ever seen him since? Never.

Have you ever been examined relative to this question since?

The Attorney-General would be glad to learn how that question could possibly apply, in a re-examination? It did not apply.

Mr. Brougham contended that it did apply, and very minutely. The object of it might be to know whether the witness had ever been to Brandenburg-house, for instance, or elsewhere: and what had occurred relative to this matter on that occasion; whether he had been once or twice, or how often, or not at all. The question did apply, and very minutely.

The LORD-CHANCELLOR. The question may be asked.

*Counsel resumed.*

I want to know whether any application has ever been made to you for information upon the subject, on the part of his Majesty's Government?

The Attorney-General submitted that this question was quite out of the examination.

The EARL of LIVERPOOL said that it would be competent to a Peer to ask that question hereafter.

The Solicitor-General observed to the At-

Attorney-General, that the question might as well be asked now; the latter said he waived his objection, and the question was repeated.

Ans. I was ordered to attend the Admiralty, where I was asked when I had seen James last, and whether I knew where he was? Except that question there is none other that I recollect.

The LORD CHANCELLOR.—Is that James, or James Adams, the same sailor that was on board the ship? He was.

By the EARL of ROSBERRY.—I wish to recall your attention to Genoa. You have said you saw her Royal Highness at breakfast at Genoa? Did you see her frequently at breakfast? Only once to the best of my memory.

And did you not see Bergami at breakfast at the same time? He was in the room, but he appeared to me to be waiting at table.

And not sitting down? No, certainly.

Was there any other servant in the room with her Royal Highness at the time? I don't recollect that there was.

I now recall your recollection to the tent, on the journey from St. Jean d'Acre to Jerusalem. I beg to ask whether that was a double tent, having one inside the other? It was; and there was a sort of passage or gallery inside, running round it.

Have you ever seen any body lie down in that gallery? I have never seen them lie down there; but there was a mattress for some-body to lie down, and there were servants beyond that; but I don't know that they slept there, for I was never in the tent at the time.

Then, in point of fact, you don't know whether any one slept there or not? I do not.

The tent on board the polacre, could any person open it? It opened by two parts.

Do you know whether any person could remove them so as to open it from the outside? By pulling those two parts he could open it very easily.

Do you not know whether it was fastened on the inside, on the part where it opened? I do not.

When you ascended the ladder to go into the tent where they dined, which you say happened on one occasion, did her Royal Highness speak to you? I had merely run up the ladder head foremost; but finding the tent fastened, I went down again, of course, the moment I discovered my mistake.

I think you have stated that that was after the light was put out. Yes; it must have been put out then.

Then your only knowledge of the Princess's being there was from the fact of the tent being closed? Exactly.

Do you know whether any other person slept under the tent during the voyage, but Bergami and the Princess? I do not; I have heard that others slept there; I have

not seen her Royal Highness sleep there; I never was in the tent to know.

The Attorney-General said, that the latter part of the answer must be taken out of the evidence.

Mr. Denman submitted, that if a part was to come out, the whole must.

The Attorney-General's objection was to any thing which he had heard; the other part was a legal answer.

The EARL of ROSEBERRY (having desired the short-hand writer to refer to that answer of the witness in which he affirmed to have heard that others slept in the tent) continued his examination.

Do you believe that during the voyage, any other persons slept there, at the time of the Princess and Bergami's sleeping there, I mean? I am not certain. The Countess Oldi told me so. (Cries of "No, no.") I do not know it, from only having heard it.

In the journey from Rome to Sinigaglia, you have stated that you have not the slightest recollection which two couriers they were that accompanied the Princess; that there was nothing to mark it on your recollection? No; there is nothing to do so.

Do you recollect either of those two couriers going forward on the journey in a carriage? I have a slight recollection; but I don't know positively. I think one of them did, but I have no positive recollection that that was the fact.

If you cannot exactly recall the matter to your recollection, can you state your belief which of them it was? I do not distinctly recollect; but I should rather think it was Sacchini.

Can you be positive of it? I cannot be positive.

By EARL GREY. When you stated that you thought it necessary that some person should sleep with her Royal Highness, did you mean to state that you thought it necessary that some male attendant should sleep near her Royal Highness? I did.

Under the circumstances under which you believe Bergami to have slept under the tent, did it convey to your mind any suspicion of an improper connexion between him and the Princess? No, it did not.

By the EARL of LIVERPOOL. Do you know where Captain Flynn slept on the voyage from Jaffa home? He slept in his cabin, and sometimes he slept his cot upon deck.

Do you know, or do you not know, that during the whole or the greater part of the voyage home from Jaffa, Captain Flynn had his cot upon deck? I have seen his cot there; he frequently slept there, but I do not know how many nights.

Did you not act as private secretary to the Princess? I did.

Do you know any thing relative to the purchase of the Barona by the Princess, and of its being assigned to Bergami?



Mr. Donnan suggested that this was not a question that could with propriety be put. It was true; as Mr. Hownam was not Attorney to the Princess, he could not object on the ground that the question required what was a communication made to him in that capacity; but as he was private secretary, the witness might know something confidentially of the contents of deeds and papers, and it might dwell upon his memory. No court of justice, he apprehended, would extract these particulars, but would require the production of the deeds themselves.

The EARL of LIVERPOOL only wished to know the fact, whether the Princess did purchase the Barona and gave it to Bergami.

After a single remark from the Lord Chancellor, the following question was put by the Earl of Liverpool to the witness:

Do you know whether the Barona belongs to Bergami?

Mr. Donnan wished to learn what means of knowledge the witness had possessed.

Do you know whether Bergami is in possession of the Barona? I do not know at this moment.

Has he ever been?—I believe it was his, but I do not know.

Was not the name changed to Villa Bergami. I think it was.

By the MARQUIS of LANSDOWN.—

Do you know where the Countess of Oldi and Victorine slept on the journey to Jerusalem? Countess Oldi had a tent of her own, but I do not know whether she slept in it, or whether she slept in the tent where the chambermaids were with her.

Or Victorine? I have never seen them sleep, and do not know.

When you state that the Princess and Bergami may have been walking arm in arm on the deck, do you remember that the Princess may have been leaning on the arm of Bergami? Yes.

Did the Princess, while she was on board the polacre, ever lean on your arm in the same manner as on the arm of Bergami? It is very possible, but I do not recollect the point marked. Her Royal Highness used to to walk with me, arm in arm, very often.

During the period of your residence in Italy, have you ever seen any entertainment, either at the house of the Princess, or at any place, where the characters of harlequin and columbine were sustained in the same manner as in this country in what is called a harlequin farce? All I have seen is, Louis Bergami in what is called a harlequin's dress, and more than once.

Can you state whether you have ever seen the part of harlequin sustained in the same manner as in England, by pantomime and action? I do not think I ever did.

By the EARL of LIMERICK. You have stated that several other persons besides Bergami slept in the tent on board the polacre ("No, no, from several Peers.")

On the occasions when you state that you believe Bergami slept in the tent, had you reason to think that any third person, male or female, slept in the tent? I do not know.

Can you swear that you never saw Bergami kiss the Princess? I will swear that I never saw him kiss the Princess.

I understood you to say, on a late part of your cross-examination, that you thought it necessary that a person should sleep under the tent with the Princess: I beg to ask from what you conceive that necessity to arise? I never represented the necessity myself; but, on the occasion of speaking of it, I must confess I thought it necessary for somebody to be near her Royal Highness. A woman alone on a ship's deck at sea I should think perfectly authorized in having some person near her.

Would not that necessity be answered by any of the numerous suite having their hammocks stung near the tent, or by the Princess having some person mounting guard at the side of the tent, instead of sleeping with a man in the dark? The thing never presented itself to me before: but the suite was not so numerous as to enable it to be done: there was only Lieut. Flynn and myself who could have done it: we could not expect Count Schiavini to do it, who never set foot on a deck before.

Could not a hammock have been stung equally well on deck for any such person as for Lieut. Flynn? It might have been stung there; but Lieut. Flynn brought his on deck merely for the cool air.

Would it have been a severe hardship on that English sailor to whom you have referred?—

[No answer was given to this question.]

Would it not have sufficiently answered the purpose if a female had been placed in the tent instead of a male, or besides a male person, the tent being fully equal to contain three persons? I cannot answer the question; there might have been 50 other ways of doing it, and we might have all slept outside round the tent as well as one.

Was there any order given to the officer of the watch to watch specifically over the person of the Princess? No, I do not recollect it: the officer of the watch was the mate of the vessel.

Were any suspicions entertained by you of the crew or any part of it? None.

Then it was not from any apprehension of the crew that you conceived it necessary that a man should sleep in the same tent in the dark with the Princess of Wales? When I saw it I looked upon it in that way.

In what way? That it was not improper that he should sleep there, the Princess being on deck by herself.

Then you do not conceive there is any impropriety in a male person sleeping in the same tent with a female, the light being out.

From the manner, the hatches being open and all the doors below, I do not. There was no mystery in it whatever.

I beg to ask you whether you would like your wife—(No, no, and some laughter)—would you have any objection, or conceive it improper that Mrs. Hownam should so sleep in a tent with a male person? Every man, I trust, looks at his wife without making any comparison or exception. I never made any comparison.

Then you cannot form any opinion upon it? I cannot.

Mr. Brougham observed, that the witness was not here to be understood as saying that he had never made any comparison between the Princess and his wife.

The EARL of LIMERICK and the LORD-CHANCELLOR said a few words not distinctly audible, relative to the hearing of the witness's answer; after which the former put the following questions:

I beg to know whether you see any impropriety, situated as the tent was, with the hatches open, in a male and female so sleeping? I do not conceive that there was any impropriety, because if there had been, I must have felt it. I have seen the Princess in so many situations during her travels, that I do not look upon it as improper.

What do you mean by saying that you have seen the Princess in so many situations during her travels? I have seen her under a sorry shed at Ephesus, under which we should hardly put a cow in this country, in the midst of horses, mules, and Turks. It did not strike me as improper.

In the early part of your cross-examination you said that you did not know where Bergami slept; after a considerable time, after many questions, you were induced to form a belief, and to state that Bergami slept in the tent. I beg to ask what is your reason for stating that early in your examination?

The EARL of LIVERPOOL submitted that this was not a proper question; it was a sort of inference to be collected from the testimony of the witness, a matter of reasoning by and by.

The EARL of LIMERICK said a few words in explanation of his motive in putting the question. It was ordered that it should be struck out of the minutes. His Lordship then asked,

In a very early part of your cross-examination, a scene, or rather a representation of several scenes of comedies or farces were called to your recollection, and you were asked several questions regarding them. You remembered the characters of several persons engaged in the performance, but when asked the particular character supported by the Princess, you did not recollect whether she

bore any character or not. Now I ask you how you reconcile to yourself the recollection of all the others, and not the Princess of Wales's character, which must have been so prominent a feature.

EARL GREY remarked, that this question was liable to precisely the same objection as the former.

The EARL of LAUDERDALE, if we heard correctly, reminded the House that the witness had already sworn as a fact that the Princess had appeared in the character of an automaton.

A few words passed between the Lord-Chancellor and Mr. Brougham, but so much confusion prevailed in the House at the time that we could not collect them.

The LORD CHANCELLOR begged Noble Lords to take their places, and several times complained that he could hear neither the questions nor answers, even when read over by the short-hand writer.

The EARL of LIMERICK said that he had no object but to elicit truth, and would put any question the Learned Counsel for the Queen might wish the witness to answer.—("No, no," "go on.")

You recollected that Louis Bergami was dressed as harlequin, but you did not recollect the dress or character of the Princess. Did you see Louis Bergami and the Princess dance together during any part of the representation? I have seen Louis Bergami dressed frequently as harlequin, and he was dressed in that way that night. We all danced together: I was dressed as a Greek.

I suppose, as the piece was harlequin and columbine, the principal part of columbine was not omitted. Who played columbine? I do not recollect. If the Princess had played it I would state it.

You said that the Princess played the part of an automaton? Yes. [The witness added a few words, lost in the universal noise prevailing in the house.]

You said that the automaton was sold, and consequently bought. What did the automaton do: was she sitting, lying, running, or what? In a box, standing up, I think.

The LORD CHANCELLOR observed, that the witness was quite inaudible at the table; he entreated that their Lordships would preserve order. ("Places, places.")

Do you think that these acts stated by you are consonant with the high dignity of the royal personage about whom we have been speaking? I do not think them any derogation from her Royal Highness's rank, knowing the pleasure she takes in that sort of entertainment.

Four o'clock having arrived, the Lord Chancellor adjourned the House amid considerable confusion.

## House of Lords,

THURSDAY, OCT. 12, 1820.

The house was called over soon after 10 o'clock.

The EARL of BLESINTON immediately rose, and alluded to the difficulty of hearing the questions put to the witnesses, and the answers given. Even the repetition by the short-hand writer could not always be heard. He suggested that the questions and answers should be repeated separately, in order to prevent misunderstanding: for, as the examination had hitherto been conducted, an idea had gone abroad that the questions were hurried on so fast as to confuse the witness.

The LORD-CHANCELLOR said a few words, in which we understood him to concur in the suggestion that the better way would be for the question to be repeated by the short hand writer before the answer was given, and then the answer to be repeated before any other question was put. His Lordship also suggested to the short-hand writer to read aloud, for occasionally Noble Lords who sat behind him could neither hear the question nor answer.

The EARL of LAUDERDALE objected to the proposed mode of reading the questions before the answers were given. He certainly must consider such a course of proceeding highly improper, as its tendency would be to destroy completely the main effect of cross-examination.

EARL GREY admitted the force of his Noble Friend's objection, but, their Lordships had no alternative; for if the questions and answers were not distinctly repeated, he for his part could not hear one in ten.

*LIEUT. HOWNAM'S Examination by the Peers, resumed.*

LORD ERSKINE said he did not consider it necessary to put the questions to this witness that he intended yesterday, as answers given yesterday rendered them unnecessary.

By LORD WALSINGHAM.—I wish to ask the witness whether he knows when the Princess took baths on board the *palace*? I never saw her bathe, and cannot tell.

By the EARL of CARNARVON.—You have mentioned the visit of the Princess to Trieste: I wish to know whether it is consistent with your own knowledge that after that time she never was at Trieste? It is.

By the EARL of KINGSTON.—Did you enter into her Royal Highness's service before Bergami, or after him? Before.

Do you know the reason why Bergami was selected to attend on the Princess at night in

the tent in preference to yourself or Captain Flynn? I do not.

Is it customary for a sentinel to sleep while on his watch? It certainly is not customary.

In what ships have you served in the navy? I have served in many ships.

Be so good as to name them.—In the *Africaine*, Capt. Manby; the *Lively*, Capt. Hammond; the *Centaur*, Sir Samuel Hood; the *Bersfleur*, Capt. M'Leod; the *Larina*, Lord Wm. Stuart; the *Resistance*, Capt. Adam; the *Endymion*, Capt. Pellew; and the *Undaunted*, Captain Usher.

How many years have you served? I have been in service since the early part of the year 1803.

By the EARL of DARNLEY.—You were understood to have stated yesterday, in reference to your going up the ladder, that there was no mystery or concealment whatever in Bergami's sleeping under the tent: I wish to know whether on other occasions, when Bergami slept under the tent, there was any mystery about it: None whatever.

What was your opinion of Bergami as a servant to her Royal Highness?

LORD MELVILLE interposed on this question being put.

It was, however, repeated, and answered thus: I must confess that Bergami was excessively attentive to her Royal Highness, and most ready in his duty.

The EARL of DARNLEY continued to examine. Was he, on account of his activity and vigilance, more likely to be selected by her Royal Highness from among her servants than any other? I think he was. I should think that from the way in which I have seen the Marquis of—— behave to him, and his recommendation, he was the most likely one, and the man whose behaviour as shown by the Marquis would most justify the selection.

Was no suspicion of impropriety of conduct on the part of her Royal Highness entertained in your mind? None.

A question was put yesterday respecting your wife: may I ask you what is the age of Mrs. Hownam? About 30.

Have you always lived together as man and wife ought to do?

On this question being put there was a loud cry of "Order! order!" and considerable confusion, amidst which the witness (as we understood) answered—"We have."

The EARL of LAUDERDALE.—I will just ask your Lordships how this can be evidence?

The LORD CHANCELLOR could not conceive how the question could apply in any way to the inquiry before their Lordships.

You are well acquainted with Lieut. Flynn? Yes.

You believe him to be a man of honour and veracity?

Some objection was made to this question, and

The LORD CHANCELLOR said, that he thought the proper way of putting it was, to ask the witness whether he thought Lieut. Flynn a person to be believed on his oath.

The witness answered, before the question was put, thus:—I believe Lieut. Flynn to be perfectly a man of honour.

I wish to know, but I do not desire to press the question, whether, from the knowledge he has of Lieutenant Flynn, he believes his understanding to be at all times perfectly clear? I am not competent to give an opinion on the understanding of a man of my own age.

The LORD-CHANCELLOR objected to the question; and it and the answer were struck out of the minutes.

By LORD DE DUNSTANVILLE.—How far was it from the steerage of the polacre to the tent in which her Royal Highness slept? From the helm it was about 5 feet.

You have said that sometimes during the voyage Lieutenant Flynn slept on deck? I have.

Was her Royal Highness then sleeping under the tent? I believe she was.

If she was, do not you think she must have been sufficiently protected by Lieut. Flynn sleeping on deck? He was not constantly on deck.

But, at those times when he was on deck, do you not think her Royal Highness was sufficiently protected? Yes; I think she was.

Then if Lieut. Flynn had slept on deck during the whole voyage from Jaffa to Syracuse, would it have been necessary that any one should have slept under the tent? The ship rolled very heavily, and an accident might have occurred in the tent.

Mr. Brougham objected to the manner in which the answer had been taken.

The question was repeated, and the witness answered,—There may have been many reasons for a man sleeping in the tent. An accident might have happened in the tent by a sea breaking over the quarter.

The LORD-CHANCELLOR desired the witness to raise his voice.

Am I to understand that this is the answer to my question? Yes.

You have said that you sometimes went up the ladder from the dining room to the tent, and finding the Princess had retired, came down immediately. I wish to know how you reconcile that proceeding with your opinion that there was nothing indecent in Bergami's passing the night in the tent with her Royal Highness? Because the tent was down all round, but the hatchway and doors open.

There was no light in the dining-room? I did not see any.

What might be the occasion of your being in the dining-room, and going upon deck?

I was in the habit of going up that way every day. I did not know the tent was closed: besides, it was not absolutely night; it was about ten o'clock.

What was the period of your voyage? We left Jaffa on the 17th of July, and arrived at Syracuse on the 20th of August.

Do you mean to say that at that period of the year it is not dark at ten o'clock? It was night time, and as dark as it usually is, at such an hour and in such a climate.

When you went up the ladder at 10 o'clock did you not know that the tent was closed?—I did not.

EARL GROSVENOR.—Had you any reason to believe that after the affair of Ompteda, and the attack on the Princess's house at Genoa, from that or any other circumstances, that her Royal Highness entertained apprehensions for her personal safety?—I know she did, because she mentioned it to me.

And in consequence of such apprehensions expressed to you, do you know that she deemed it necessary to be more closely attended than formerly by the male part of her family? Yes; I have heard her frequently say, after the attack, that she would always have some male person near her.

You mean near her in consequence of these apprehensions? Yes.

By LORD COMBERMERE.—You have spoken of the rolling of the ship, and the probability of an accident in the tent; I wish to ask you whether, in that case, it would not have been better that you or Lieut. Flynn, or some seafaring person, should have been in the tent than a landsman? I imagine the rolling of the ship was not the only cause of apprehension; but certainly, in the case of an accident, a seafaring man would be the most capable of giving assistance.

Would not such a person have answered the purpose of protecting her Royal Highness against the rolling of the ship?—Yes.

By the MARQUIS of DOWNSHIRE.—You have stated that you had a quarrel with Ompteda: what was the cause of that quarrel?—

The LORD CHANCELLOR observed, that it had already been determined that that question could not be put.

I wish to ask whether any circumstance occurred at the residence of her Royal Highness, which coming to your knowledge, occasioned the quarrel between you and Ompteda? It arose from the confession of a servant. I saw the servant on his knees begging pardon for his crime.

The Attorney-General objected to this part of the examination.

The LORD CHANCELLOR said, that the witness had stated he saw a servant on his knees begging pardon. He might go so far; but if the circumstance was to be made



evidence; every word stated by the servant must be proved.

The Attorney-General objected to evidence being received of what the witness had only heard.

The LORD CHANCELLOR observed, that the witness was asked whether he knew certain facts. He says they came to his knowledge by the confession of a servant. That was an answer, that he did not know of his own knowledge; and if the circumstance was to be made evidence, the servant must be called.

Before whom was that servant kneeling, and what was his name?

He was kneeling before the Princess, and his name was Maurice Credi.

The EARL of LAUDERDALE said it appeared that whatever circumstances had come to the witness's knowledge were obtained through the confession of a servant, and as to that confession it was evident the examination could not proceed. If he took a right view of the question and answer, he thought it was impossible that they could be suffered to stand. It would be competent to ask who the servant was whom the witness had seen on his knees before her Majesty, with a view to future proceedings; but he doubted whether their Lordships could allow the evidence to stand in its present shape.

EARL GREY said, if any statement had been made of the knowledge which the witness had derived through the confession of the servant, undoubtedly it could not stand on their Lordship's minutes. But this was not the case—they had not heard one single circumstance related. All the witness had stated was, that he saw a servant on his knees making an apology to her Royal Highness, and that his name was Maurice Credi. Not one particular of the confession had come out, and therefore he conceived there could be no well-founded objection to suffering the evidence to remain on the minutes.

The EARL of LAUDERDALE desired the question and answer to which he objected to be read, which having been done, his Lordship denied that they bore a very different construction, when taken together, from which the Noble Earl had stated. Nothing was, perhaps, conveyed to their Lordships' minds by the answer alone, but from the question and answer it was plain and evident, that the impression was conveyed to their understanding that the circumstances alluded to did come to the witness's knowledge by the confession of a servant. Of that confession they could take no notice, and therefore he was of opinion that the statement ought not to remain on the minutes. He could state a hundred answers which, by themselves, might be considered admissible; but when viewed with reference to the questions that elicited them, ceased to be so. It was on the question and answer united that he founded the objection.

EARL GREY was sorry that their Lordships were in the habit of consuming a great deal of time in the discussion of points like the present. The question was "Did you know certain facts?" The witness answered "that he did through the confession of a servant." Had he gone on to state what he had heard the servant say, the evidence would be inadmissible; but as he had not mentioned one of the facts, it appeared to him that the objection was not well founded. Surely it might appear in evidence that a servant was on his knees, together with the name of that servant.

LORD HOLLAND did not consider that the course adopted by the Noble Earl (Lauderdale) was regular. A question had been put, and an answer given to it, which was followed by another question and answer connected with the same point. Both were put down by the short-hand writer; and this having been done, the Noble Earl rose, and suggested the propriety of striking out the former question and answer. It would be well if objections were taken at the moment a question was put; and that liberty should not be allowed to a Noble Lord, after another question and answer had been given, to go back to preceding questions and answers, and call for their erasure. He did not think that questions and answers which were formally placed on their minutes could afterwards become the subject of discussion. If it were allowable not only to object to the question and answer before the house, but to refer to other questions and answers, there would be a still more intolerable loss of their Lordships' time.

The LORD CHANCELLOR said, it was undoubtedly important that the objections to questions should be offered as soon as possible: but it might so happen that a final answer might be of so objectionable a nature as to render it necessary to expunge from the minutes the questions and answers that led to it. The witness was asked, "Did he know of any acts or circumstances that caused a particular result?" and he answered, "That he had derived his knowledge from the confession of a servant." The fair interpretation of this was, that the witness was present at a statement made by that servant to another person; but whether this confession had one word of truth in it was not proved. The declaration of the witness might, therefore, under these circumstances, be considered as a direct assertion, that, in fact, he knew nothing of those circumstances. The name of the servant was required: and it was stated? if, therefore, he was not present to speak to the facts, the whole must fall to the ground.

The MARQUIS of BUCKINGHAM thought that the course suggested by his Noble Friend (Lord Lauderdale) was warranted by the circumstances. This quarrel between Lieut. Hownam and Baron Omph



teda, as it appeared to him, formed no part of the case which they were investigating; and, therefore, he contended the questions and answers referring to that quarrel ought to be expunged.

The EARL of CARNARVON looked upon the question as one that ought to be put, since it bore evident reference to the cause which led to certain instructions said to have been given to the servants not to molest Ompteda. It seemed now that those instructions were given by the witness himself, who had forbidden the servants to obstruct or interfere with the Baron; and if they stopped an examination which might lead to important information as to those instructions, it would, in his opinion be exceedingly wrong. He did not know how their Lordships could at that moment declare that no allusion should be made to circumstances which formed so inconsiderable a part of the case. The question affected the credit of a witness who had been formerly examined, and therefore was extremely material for their Lordships. If they even wished to expunge that question and answer, it would be still competent to inquire whether the witness had seen any person, and whom, on his knees, before the Princess? The fact that the witness had sent a challenge to Baron Ompteda had been elicited by a question not put in a direct form, and perhaps the facts which led to that circumstance might be come at in a similar way.

The MARQUIS of BUCKINGHAM said, his objection was that the case before them did not appear to be connected with this quarrel.

The MARQUIS of DOWNSHIRE (to the witness).—With whom did that person, Maurice Credi, live; whose servant was he? He was a servant of her Royal Highness the Princess of Wales.

I wish to ask, whether it was in consequence of any thing that man said to her Royal Highness that you called out the Baron Ompteda?

The witness was directed to retire, and the Earl of Lauderdale caused the last question to be read. He then objected to it as referring to a matter not connected with the case.

The LORD CHANCELLOR said he was sure that the cause which induced this gentleman to call out Baron Ompteda had nothing to do with the issue their Lordships had to try.

The MARQUIS of DOWNSHIRE was of opinion that he had a right to put the question.

The LORD CHANCELLOR.—Of course the Noble Marquis will not suppose that I would have the presumption to say that he has no right to put any particular question; but I should not do my duty in this House if I did not declare, plainly, and directly, that I think the question cannot legally be put.

The EARL of LIVERPOOL was aware that their Lordships were not shackled by the ordinary rules of evidence; but he believed there was scarcely a case in modern times, in the progress of which the Peers had not imposed that restriction on themselves; and in this instance the practice had been followed to the present moment. Now he would throw it out for the consideration of their Lordships, what a sea of difficulties they will have to encounter, if, having adopted that course, they should suddenly abandon it, and claim the right of putting any sort of questions they pleased.

EARL GREY thought their Lordships ought to confine themselves as much as possible to the rules of law that prevailed in the Courts below; and, having so long adopted the principle, he conceived it would not be right to depart from it, except on some very important occasion. He did not understand that his Noble Friend was going to press this question, which, under the circumstances of the case, could not, in his opinion, be put. To make it a legal question, the case of Baron Ompteda must be connected with that into which they were authorized to inquire.

The MARQUIS of DOWNSHIRE was willing to withdraw the question, which he had put because it had not been asked by any other Peer. He still wished, however, to elicit the fact by some other means.

The witness was called in, and the Marquis of Downshire pursued his examination.

I ask, do you know where Maurice Credi now lives, and with whom? I do not know but from hearsay.

A PEER.—We cannot receive any hearsay evidence.

The LORD CHANCELLOR.—The question, I think, may be allowed. Any Noble Lord who wishes to call this person to the bar may follow up the information he receives, so as to effect that object.

The MARQUIS of DOWNSHIRE.—Where does Maurice Credi live? I have heard, in England.

With whom? I do not know. I have not heard with whom.

Do you know the particular place in which he lives? I do not.

I meant to ask whether Majochi ever mentioned Baron Ompteda's name to you? I perfectly recollect communicating to Majochi the command of her Royal Highness, that the servants, when they saw Baron Ompteda, should not molest him, or offer him any insult.

That is not an answer. Did Majochi ever mention the Baron's name to you? I never had any conversation with the lower servants of the house on such a subject.

Majochi, then, never mentioned Baron Ompteda's name to you? I don't recollect whether he did or not.

A PEER.—When you saw this man on his knees before her Royal Highness, did she

make any reply to what he said? She forgave him.

Do you recollect the words? I do not recollect the words.

**VISCOUNT FALMOUTH.**—You have said that you saw her Royal Highness and Bergami walking arm in arm at the Villa d'Este; were they alone? I saw them walking arm in arm.

Was there any body else in the company? I do not recollect any one particular time to have seen her Royal Highness alone in the garden walking arm in arm with Bergami.

Are you confident that you never have seen them so walking whilst Bergami was a courier? I do not recollect having seen them so walking while Bergami was a courier.

Then Mr. Hownam is not positive that he has not seen them so walking together while Bergami was a courier? I never recollect to have seen them so walking while Bergami was a courier.

**LORD VISCOUNT HOOD.**—Did Baron Ompteda dine at the Princess's table at Milan? I think he did.

Did he at Como? He did.

Did he at the Villa Villani? He did.

Did Bergami wait at the Princess's table at those places? He did.

**THE DUKE OF ATHOL.**—You have stated that you considered it necessary, in the situation of the polacre, that her Majesty's attendants should sleep near her: did you ever express that sentiment to her Royal Highness herself? I never did.

The witness has said that, under the circumstances of the case, he did not consider it any degradation for the Princess of Wales to sleep under the tent with Bergami; and I think he has said that there was no mystery in the matter, as the hatchways were open. He has since stated, that one night, on going up the hatchway, he found the tent closed. Does the witness consider there was any mystery in that? The tent being closed, and her Royal Highness retired to rest, I considered that there was nothing mysterious whatever in it.

Was Bergami in the tent at that period? I did not see him; I do not know: I cannot say.

Do you know that he was not in the tent? I do not know that he was not in the tent.

I think the witness has already spoken of Bergami's sleeping in that tent? I said I believed that he slept in that tent.

Have you any reason to believe that he was not in the tent when the hatchways were closed? I never thought of it.

You have before said that you never represented to her Royal Highness that it was necessary for a male attendant to sleep near her on deck? I have said so.

When you considered it necessary for a male attendant to sleep near the Princess of Wales in the tent, did you also consider it

necessary for a male domestic to sleep below? I never represented the one or the other.

You have, however, said, that you thought it necessary for a male domestic to sleep near her Royal Highness: did you consider it necessary that he should sleep within the tent? I never thought of the thing at all; and, probably, had there been nobody under the tent, I should have taken as little notice of it as if there were persons under it, I suppose I thought it necessary within myself.

Was it for the Princess of Wales's safety you considered it necessary that a male domestic should sleep there? Her Royal Highness thought so, and I did not think otherwise.

You have already stated, that, in your opinion, it was necessary; but that opinion you did not communicate to her Royal Highness. From your last answer, however, it appears that the Princess of Wales made a communication to you. I ask, did her Royal Highness actually communicate to you that there was such a necessity? Not on that occasion, but after the affair at Genoa.

What was the danger to be apprehended on board the polacre? I don't know any immediate danger.

Then the precaution you thought necessary for the Princess of Wales—namely, to have a male attendant near her—was not in consequence of any danger that was apprehended?

Mr. Brougham objected to this question. The witness did not say that no danger was apprehended, but that he did not know of any immediate danger.

The Witness. There were 22 Sicilians on board.

**THE DUKE OF ATHOL.** Was there any danger?—I do not know of any immediate danger—of any personal danger. If I had thought there was danger, I should not have been easy in sleeping below.

Was there any danger sufficient to have induced you at any time, to recommend a male attendant to sleep in the tent? I never did recommend it.

**LORD GRANTHAM.**—At Carlskue, you have said that the Princess dined with the Grand Duke except one day, when she dined with the Margravine: did you dine in company with her Royal Highness on those occasions? I did.

You said also that she supped at the Grand Duke's and the Margravine's: did you sup with her? Yes, I did.

At what o'clock at that Court is the dinner served? I cannot recollect; I think late.

About what hour? It was late in the evening, I think; but I do not recollect the hour sufficiently to be able to mark it.

What was the lateness of the supper and evening parties? I do not recollect precisely. It might be about twelve o'clock, but I cannot say precisely.

Had her Royal Highness time to return to the house, and go back again, between dinner and supper, either to the same house, or to another? I should imagine she had.

Did she, to your knowledge, return home, between dinner and supper, any of those days? I do not recollect.

Will you undertake to say that she did? I have no recollection on the subject. If I had the smallest recollection, I should have no hesitation in stating it.

By the EARL of DARLINGTON. You have stated, that when Bergami, Theodore Majochi, and Cameron, took leave of her Royal Highness on landing at Terracina, to get pratique, they kissed her hand. Now I ask if you know whether Bergami did not take leave of her Royal Highness before coming on deck? I do not know; I have no idea.

Did you see those three persons coming on deck together? I saw all the three on deck together. Bergami, Theodore, Cameron, and every body, were around me.

Did you ever see Bergami take leave of her Royal Highness on any occasion, in a manner different from that in which you have mentioned that he, and Cameron, and Theodore, took leave on this occasion? I have seen him taking leave more than once; but I have only seen him kissing her hand, as every body else did.

During the course of this long examination you have frequently mentioned the Princess's sleeping in a tent on deck.—I apprehend you rather mean that she reposed on a sofa, than that she slept, in the common acceptation of the word. Do you mean that she slept with her clothes on? I don't believe she ever took her clothes off while on board the polacre, unless to shift herself and change her dress. I mean on the voyage back from Jaffa: on the first voyage she slept in her cabin.

Mr. Brougham, having requested the shorthand writer to read the whole answer, observed that three or four words of the witness's answer had been omitted which should have been taken down. The shorthand writer could have no motive in omitting to take down these words, but it was material that they should be inserted. The words omitted were, "That is my firm belief," which he and his Learned Friends round him had distinctly heard. (*Hear, hear.*)

The EARL of LIMERICK, and several other Peers, said that they had heard these words added by the witness.

The shorthand writer accounted for his not having heard these words by stating, that the witness had added them when turning away, after giving the preceding part of the answer.

The answer was corrected as follows:—"I don't believe she ever took her clothes off while on board the polacre, unless to shift herself and change her dress; that is my firm belief," &c.

You have not positively said that Bergami slept under the tent, but you have stated your belief that he did? I never saw him.

Now I ask you if you also suppose that Bergami reclined in the same manner, on the other bed, with his clothes on?

The LORD-CHANCELLOR said the question ought not to be put in those words. They were going thus from belief to supposition, and from supposition they got on to imagination.

Do you believe that Bergami reclined on the other bed with his clothes on? I do not think that Bergami ever took his clothes off either, in the tent. I never saw any clothes on that bed.

Do you know where her Royal Highness changed her clothes on the return from Jaffa? in the tent, or below? Below, in her cabin, I should think. I never saw her change her clothes on deck. (*A laugh.*)

I apprehend you never saw her change her clothes? No, not any where.

Did you ever, from a window at the Villa d'Este, see a dance which Mahomet performed at that time? I did: I was in her Royal Highness's room, and we heard a noise in the court-yard. Her Royal Highness came to the window, as I did myself, and we saw Mahomet exhibiting his dances. There were several persons in the court-yard.

Where was Majochi at that time? I did not take particular notice. There were many of the servants present, but I cannot say positively whether he was or not.

Was there any other person besides yourself in the room with her Royal Highness at the time you looked out at the window? I don't think there was. I have no recollection of any person but myself being in the room with her Royal Highness.

Did you conceive that there was any great impropriety or indecency in that dance? No, certainly not. I never did.

I ask you how long it is since you have seen Capt. Briggs? I saw him at Portsmouth about two months ago.

Had you any conversation with him on this subject? Did any conversation pass between you and him on this subject? On the subject of this inquiry?

Yes, about this inquiry?—

The Attorney-General objected to conversation being received as evidence.

Witness.—Captain Briggs declined having any conversation on the subject.

And you have never had, to the best of your recollection, any other conversation with Captain Briggs since you were on board the *Leviathan*? I never have. I have only seen him once. (The witness added something

about having seen Captain Briggs when passing into the House of Lords; but we could not hear this part of his answer distinctly.)

If you had ever any conversation with Captain Briggs, do you think you would recollect it? I think I should.

By LORD ELLENBOROUGH.—You say Captain Briggs declined having any conversation on this subject. Did you propose any such conversation? The object of my going was that. It was for myself.

What was your reason? I had heard that Captain Briggs was coming as a witness against her Majesty; I thought it could not be so; and declared at the time that I thought it could not be so; and I thought I would go and ask him myself.

What did you ask Captain Briggs? I asked him if it was a fact that he was coming as a witness against her Majesty.

What answer did he give? He said he thought he should be called; and added that his testimony should be nothing but what was honourable and just.

Was that the whole of his answer? I think so; I don't recollect any thing more.

In that answer Captain Briggs did not decline any conversation? He told me he could not enter into any farther conversation on the subject.

Did you ask him to enter into any farther conversation? No; I did not press Captain Briggs to enter into any particulars. I only asked him if he was coming as a witness.

When did you see Captain Briggs in this House? On the day on which he gave his testimony.

Were you present during his examination? No, I was not.

Had you any conversation with him then? No, only a few words. I shook hands with him over the banister, and he said he hoped he should shake hands with me when I came up.

Was that the whole that was said? It was, to the best of my recollection.

Did you ever see the tent closed in the day-time on the voyage from Jaffa to Syracuse? I have seen her Royal Highness falling asleep in the day-time, and I have closed the tent to prevent the sun from troubling her.

Was that the only time that you saw it closed in the day-time? I never recollect seeing it closed except at these times; but on such occasions it was not closed—to say closed.

How frequently might this happen in the course of the week? I do not recollect: I cannot say. It might happen once, twice, or more times; but I do not recollect the number of times.

Did you remain on deck after the tent was closed? I may have remained on deck. Yes, I dare say I did. It is more than probable I did.

Can you say positively that you did? I cannot recollect positively, it is so long since. This circumstance occurred five years ago, and I cannot remember such a fact as that.

When the tent was so closed, was there any person under it but her Royal Highness? I have not seen any body.

Can you positively say you saw none under it but her Royal Highness? I can positively say I never recollect to have seen any body.

Did you ever go into the dining-room when the tent was so closed during the day? I do not recollect.

At what hour were you in the habit of leaving the dining-room in the evening? About 8 or 9 o'clock, I think. It might be half-past 9.

At what hour were you in the habit of returning to the dining-room in the morning? I should think we breakfasted about 10.

Did you ever at any time enter the dining-room between 9 o'clock in the evening and 10 in the morning? I have passed through the dining-room to go up the ladder to the deck.

Could you not go upon deck without passing up the ladder? Oh, yes; there was another passage: in fact, I believe there were two other passages.

You have said you were not in the habit of remaining in the dining-room after 8 or 9 o'clock in the evening, and that you were not in the habit of returning before breakfast-hour in the morning. Now I ask you if you ever went into the dining-room during the interval between these hours? Only on occasion of going upon deck after supper. In going upon deck I have gone up that ladder.

What was your supper-hour? There was no hour fixed precisely. It was generally half-past eight, or nine o'clock, as near as I can recollect.

Then do I understand you to say that after supper you did not return to the dining-room before breakfast, except for the purpose of going up that ladder? I had no other occasion to go into the dining-room but to go up that ladder.

What is the latest hour at which you have been in the dining-room? I cannot say precisely. Sometimes at 10, or half-past 10, I have gone up the ladder. Sometimes the tent was closed later than at other times. I can't say exactly to half an hour.

Did you ever enter the dining-room after you knew the tent was closed? I don't recollect that I ever did, knowing it to be closed.

Then, between the hours of ten in the evening and ten in the morning, you had no means of knowing whether the hatchway was closed or not? I was asleep in bed then, and cannot know. It might have been closed; the

thing might have happened when I was asleep, but I don't believe it did.

Then, in answer to a question yesterday, when you said you thought there was no impropriety in her Majesty's sleeping under the same tent with a male, because the hatchway and the doors below were open; you were assuming as facts what you were not acquainted with?

Mr. Brongham said he was extremely reluctant to object to any question, but this was really no question at all: it was putting the opinion of their Lordships in the shape of a proposition to the witness.

The LORD CHANCELLOR said that the question ought to be stated in the words of the witness.

The short-hand writer then read the following extract from the minutes of the witness's former evidence:—

"Am I to understand that you say distinctly, that, in your opinion, there was no impropriety in a male person sleeping in the same tent with a female? From the circumstance of all the lights being burning, and the hatchway and the doors below being always open, I do not. There was no mystery in that whatever."

Have you any personal knowledge that the hatchway and the doors were always open? I have always seen the doors of the dining-room open; and, as I stated before, when I ran up the ladder the hatchway was open, and I don't know that it was ever shut.

Have you any personal knowledge that it was open during the interval between your leaving the dining-room in the evening and your returning to it in the morning? I have a thorough conviction of the fact.

Have you any personal knowledge of the fact? I have seen it open when I ran up the ladder.

Could the hatchway be closed without removing the ladder? It could not be closed without opening the tent.

Where was the cover of the hatchway—the hatches themselves? I do not know.

Did you ever see the hatches under the tent? No, I never did.

Who slept in the dining room on the voyage from Jaffa to Syracuse? I don't know. I never saw any body sleep there. I have seen a bed there in the day-time rolled up, but I never saw any one sleep there.

Where did Majochi sleep? Down in the hold, I believe, where the footmen slept. I never saw him sleeping there, because I never went to the hold to see.

Did Maurice Credi remain in the service of her Royal Highness after you had seen him on his knees, as you stated formerly? He remained till the journey to Vienna.

How long was that? It was in the beginning of the month of November that this circumstance happened, and I think it was in the beginning of the next year that he left the service of her Royal Highness.

Why did he leave her service? Her Royal Highness gave him as a courier to her aunt, the Margravine of Bareuth.

By EARL GREY.—Was the tent ever completely closed in the day-time, as at night? I never saw it so.

Can you take on yourself to say that any one who swore it was, must have sworn a falsehood? I can't say. Having never seen it myself, does not warrant me to swear to what another may have seen.

Did you ever see it so closed in the day-time that any of the crew, in passing, could not have seen into the tent? Never.

By the EARL of WINCHILSEA.—You have said that you went up the ladder late; what do you mean by late? After supper; I said from 8 to 10 o'clock; but I may be out an hour.

Do you mean to say that the tent remained quite undisturbed during that time? I have always seen it so.

Do you know that the hatches were not within the tent? To my knowledge, they were not.

The LORD CHANCELLOR.—Does the witness mean to say that he knows they were not within the tent? or that, as far as he knows, they were not? I have no knowledge that they were within the tent.

By LORD AUCKLAND.—Have you kept copies of the challenge to Ompteda? No, I have not.

You have no copy? I have not.

By the EARL of MANSFIELD.—Was there a companion to the hatchway? There was not.

There was no protection at all? No; there was no companion, nor protection of that sort.

Were the rest of her Royal Highness's suite in the habit of using the ladder in the day-time? Yes, they were.

By EARL GROSVENOR.—If her Royal Highness had been so outrageously indecent as to suffer herself to be kissing Bergami in the presence of the master and mate, I ask you whether it would not have been the cause of conversation among all on board?

(Several of the Lords cried "No, no.")

The LORD CHANCELLOR.—If one witness swear to a fact, you may call 20 witness's to give their opinion that it was not true.

EARL GROSVENOR.—I ask the witness as to his belief, which has been often asked upon other points.

The EARL of LIVERPOOL.—The witness may be asked his belief as to where Bergami slept, because he may have known where every one else slept. I give that as an instance where belief is evidence; but as to belief upon a point on which he has no means to form any belief, it cannot be evidence.

EARL GROSVENOR.—I only ask the witness whether such a thing could have occurred without coming to his knowledge.

[A general cry of "Read the Question."]



Mr. Gurney read:—"If her Royal Highness had been so outrageously indecent as to suffer herself to be kissing Bergami in presence of the master and mate, I ask you whether it would not have been the cause of conversation among all on board?"

EARL GROSVENOR.—Let it be put in this form:—Whether he believes it could have happened without coming to his knowledge?

The LORD CHANCELLOR.—I am of opinion that the question cannot be put.

EARL GROSVENOR did not press it.

By LORD SOMERS.—You have stated that you have been a long time in her Royal Highness's service, and that, in your opinion, the favours and kindness of her Royal Highness to Bergami proceeded from proper, and not from improper, motives. I wish to know whether, when the mother, the child, and other relations of Bergami were admitted to her Royal Highness's table, you can assign any reason why the wife of Bergami was not there as the natural nurse of her own little child? (*Cries of "read the question."*)

Mr. Gurney read it.

The LORD CHANCELLOR. In the first place it appears to me doubtful whether the witness has stated so much as is assumed in the first part of the question (*hear, hear.*); and then, if the question were itself proper, the only form would be, if he ever heard her Royal Highness give any reason.

Mr. Brougham.—My Lords, there is, besides, no evidence that the wife of Bergami was the mother of the child. Not a word of evidence has been given to that effect.

The LORD CHANCELLOR.—I beg leave to offer here a general observation to your Lordships. I submit to your Lordships whether witnesses ought to be made the means of reasoning upon the evidence. The witnesses are to speak to facts. It belongs to your Lordships to reason upon those facts. (*Hear, hear.*)

By VISCOUNT CLIFDEN.—Was not the Princess, in fact, extremely fatigued by the voyage from Jaffa to Syracuse? and did she not appear very impatient to get ashore? and were not her legs swelled in consequence of not having slept sufficiently on board?

The EARL of LAUDERDALE.—Did you see her Royal Highness's legs swelled? I never saw her Royal Highness's legs. (*A laugh.*)

Has her Royal Highness told you her legs were swelled? Yes; her Royal Highness told me, in speaking of her fatigue from a voyage of 40 days, or thereabouts, as I recollect, that her legs swelled from want of rest.

Mr. Brougham.—I beg leave to offer here a remark, with all submission to your Lordships. I don't complain of any inquiries that your Lordships may be disposed to make; but the complaint I make, with all

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submission, is, that the effect of an examination is destroyed by the manner in which it is interrupted. When the witness gives half an answer to one Noble Lord, another Noble Lord puts then another question. The first question is not answered by the witness, and no part of the answer is read by the shorthand writer, when a Noble Lord interrupts the answer by another question. Nothing can be more unfair than thus to ask a second question on a part of the first question; for the new question may lead away the attention of the witness, and it may be forgotten to get any answer at all to the first question.

The LORD CHANCELLOR.—Mr. Brougham, it is impossible to avoid that, when the answer of the witness is not heard. Not one Lord in twenty has heard a single answer given by the witness. Mr. Hownam must speak out, as he would on board a ship. (*A laugh.*)

LORD CLIFDEN's question was read. Was not the Princess, in fact, extremely fatigued by the voyage from Jaffa to Syracuse? and did she not appear very impatient to get ashore? and were not her legs swelled, as happens to a person who has not been asleep? Yes, her Royal Highness complained much of the fatigue of being on deck for 40 days or more; and she said her legs were excessively swelled.

By the EARL of LAUDERDALE.—Have you read the evidence printed in the daily newspapers? I have not even read my own evidence given yesterday.

Have you read the evidence of Majocchi? Yes.

Have you read the evidence of De Mont? Yes?

Have you read the evidence of Sacchi? Part of it I have read, and part I have not.

Was any part of Sacchi's evidence pointed out to you? Not that I recollect.

How did you then select the passages you read of Sacchi's evidence? I did not select any passages; I have read it as any person would have done. I don't at this moment recollect any part I read of it.

You have read the whole of it then?—No.

Mr. Brougham.—My Lords I object to questions assuming the very reverse of what the witness has answered. The witness is asked, "How did you select the parts you read?" although he had said that no part had been selected or pointed out. He is again asked, "You have then read the whole?" although he had said that he had read only a part.

The EARL of LAUDERDALE gave some explanation which we were unable to hear, but which the Duke of Clarence and a Noble Lord on the left cheered.

The MARQUIS of LANSDOWN. I object to the word "select" being entered as part of a question to the witness, for he had

the window, can you assert, that it was a dance of that kind that a woman of virtue or common delicacy of mind could observe without disgust? It was not more indecent, in my opinion, than the Spanish bolero.

I think, Mr. Hownam, you were commissioned by her Royal Highness to convey some message to Capt. Pechell, on board the *Clo-rinde*? I was.

Do you remember what the instructions were that her Royal Highness gave you on that occasion? I don't recollect them, word for word; but the purport of them was, that she would keep her own table, in fact.

Do you recollect whether those instructions were accompanied with any observations, on the part of her Royal Highness, as to Captain Pechell's conduct towards her? I do not.

You have said, in a former part of your evidence, I think, that her Royal Highness treated all her servants with a great degree of tenderness and familiarity? Affability, rather.

Affability, then. Should you have felt that that affability justified you in making any remarks to her Royal Highness, if you had seen any impropriety in her conduct, which you might think likely to be injurious to her reputation?—

(The house appeared to concur in the opinion of one of Peers, who exclaimed "That question cannot be put." It was accordingly withdrawn.)

Can you recollect, on any occasion, when her Royal Highness had given any directions respecting her route by land, either as to the roads she was to travel, or the inns to which she was going, suggesting to her any alterations in that route which you thought it desirable for her to make? I don't recollect any one occasion.

Who generally arranged the route which her Royal Highness was to take? That I cannot say: I always took the rooms appointed for me. (*A laugh.*)

(Some amusement was excited in the house by this mistake. It was explained that the question applied to the word "route," not "rooms.")

Ans.—I don't know; I imagine her Royal Highness herself.

Do you remember ever having heard that any spies were set upon the conduct of her Royal Highness the Princess of Wales? or have you reason to think that any person was employed by her who would have taken that advantage?

(This question, in compliance with a cry of "withdraw," was withdrawn before it was answered.)

Do you know whether any spies were ever employed to watch her Royal Highness's conduct? Only from the confession of Maurice Credi.—(No, no.)—It was told the witness that this answer would not be permitted:

but he said he could only speak; as upon this point, from that information.

By EARL GROSVENOR.—Does the witness know the Duke or Duchess of Polognia to have dined, at any time, with her Royal Highness? I think they have.

Does the witness know whether the nephew of the Duchess, Carlo Forti, ever waited at table? This is the first time I ever knew that Carlo Forti was the nephew of the Duchess of Polognia.

Then, I ask, did he ever so wait? He never waited at table.

By LORD AUCKLAND.—What was the dress of Bergami, as a courier? It was, as well as I can remember, bottle-green, fringed with gold, and turned up with scarlet.

Then it was what you would call a handsome dress? Certainly, a handsome dress.

Did it resemble a Hussar dress? Not so much a Hussar dress as the uniform of Brandenburg.

By LORD DUNCANNON.—Did not the swell of the sea, occasionally, make female attendance upon her Royal Highness absolutely impossible? When there was any sea, all the female attendants and the Countess were as ill as her Royal Highness herself, and consequently could not well attend her.

Am I to understand, then, that male attendants were absolutely and indispensably necessary, both by day and night? I should think that, for any thing which her Royal Highness might want, there should be a male attendant to procure it for her.

Was there any steward on board, whose duty it was to attend to the cabin, and also to the tent? None, none in particular.

By the EARL of ROSEBERRY.—After the sea struck the tent, were the hatches close? I think they were.

Were the hatches down for that purpose? I don't recollect that: I don't know whether or no they were.

Can the witness mention whether he ever saw the hatches lying, and where? I don't call it to my remembrance in any particular place.

Can you call it to mind at all? I have seen them on the deck.

Were they open or close? They were skylights.

By the DUKE of RICHMOND.—The first time that you saw Bergami dining with the Princess of Wales in the dress of a courier, you say you don't recollect where he sat. I ask you, will you swear that he did not sit next to her Royal Highness? I don't recollect.

Should you not recollect such a circumstance if it had happened? I do not recollect; if I did, I would say so at once.

By the Attorney-General.—Had you not a servant attending you, at Genoa, of the name of Francisco? Was he not your servant at Rucanelli? I had a Genoese servant of that

name, but he was not my servant when I was at Rucanelli.

Was he then a servant of her Royal Highness during her Royal Highness's travels? He was.

Does witness know where that servant now is? No; I do not. I have seen him in London, but I don't know where he is now.

When did you see him in London? Since I returned last from France.

Where did you see him last? I think the last time was at Mr. Vizard's office.

The witness having withdrawn,

Mr. Brougham was desirous that their Lordships should have him recalled, there being, he thought, some doubt upon their Lordship's mind, perhaps, about the hatches being closed when the sea struck the vessel. It might be, possibly, more satisfactory to their Lordships to allow him to be called in, and explain more fully his meaning, the technical expression of which had not, very likely, made it perfectly clear to the House.

Their Lordships did not think this necessary; and the next witness was called.

**GRANVILLE SHARPE, Esq. sworn:**

*Examined by Mr. DENMAN.*

Will you describe to the House what situation you hold? I have been in the East-India Company's service nine years.

In the army? In the army.

Have you resided in the East Indies? Yes.

How long have you lived there? Above 9, and almost 10 years.

When did you return from India? About three years ago.

When you resided there, did you ever see the Moorish dance, called Dami-Dimi? I have seen the Moorish dance, but I did not know it to be called by that name.

Was it accompanied by any expressions? Yes.

Do you remember what they were? Different unmeaning sounds, of which I don't remember any in particular.

Was there any thing indecent in this Moorish dance; any thing unfit for women to witness? Certainly not.

Where, pray, are the hands held during the dance? They are held about in various ways, and are generally thrown about the head.

Are the knees bent? Is there any courtesying? Yes, it is accompanied by courtesies throughout.

And the unmeaning sounds you describe, do they form a tune to which they dance their dances? Yes, they sing them to a tune.

Where have you seen this dance? At Calcutta.

In what places? At the Governor General's house.

Who was the Governor at that time? The Marquis of Hastings.

Was his Excellency present where the dance was exhibited? He was.

And the Marchioness? She was.

And other ladies? And other ladies.

Now do you remember whether the Bishop was present? the Bishop of Calcutta, was he present? Yes, he was present. (*A laugh.*)

Was his lady there (*a laugh*)? Yes, she was there.

I don't ask, then, whether there was any thing indecent in the dance so exhibited? There was nothing indecent.

And that is the ordinary Moorish dance.

*Cross-Examined by Mr. PARK.*

There are many other Moorish dances in the East Indies, are there not? Many others.

Of what description? Some are to a quick, or, some to a slower movement.

How many persons danced at the dance you have described? One person. One at this particular dance, I mean.

Are there no dances of this sort at which ladies are not present? I never heard of any; I believe not.

The witness then withdrew.

**SANTINO GUZZIARE sworn.—Examined by Dr. LUSHINGTON.**

Were you ever in the service of her Royal Highness the Princess of Wales? I have been.

In what capacity? Factor.

What were the duties performed in that situation? To give out and overlook work for the working-people; to mark down their accounts, and to pay them on Saturday; to take care of, and distribute the wines to the family, and all those duties which a master would command of me on account of this situation.

Where was it that you performed these duties? At the Villa d'Este, in the gardens, the vineyards, and so forth.

How long did you continue to perform these duties? I was born at that place, and when I was 18 years old I undertook the office of the factor.

How long were you in the service of the Princess? From the moment that she bought the villa till she left the place.

Do you know Luigi Galvini? I do.

What was he? He was a mason by trade.

Did the witness ever employ him? Yes, I have.

At what wages *per diem*? At two livres of Milan per day.

Do you know a person of the name of Brusa? No.

Do you know a person of the name of Ragazzoni? I have heard that he was a mason that worked at the Villa. Perhaps I may know him by sight.

Paulo Ragazzoni I mean? No, I don't know him more particularly.

Do you remember the grotto at the Villa d'Este? I do.

Do you remember there being, at the Villa d'Este, two statues of Adam and Eve? I do.

Did they ever stand in that grotto? They have been in that grotto.

In what room of the grotto were those statues of Adam and Eve? In the first rotunda, or octagonal room.

Was there another rotunda or octagonal room, in the grotto? Yes, two others.

Was any cornice made to the rotunda, or octagonal room where the statues stood? No, sir.

Was there any scaffolding erected, or any workmen at the cornice of that octagonal room, where the figures were? No.

Was there any cornice made in the other octagonal room? Yes.

In both, or in one only? In one alone.

Can you describe the rooms in that place?

Interpreter. — He says he wants some paper.

Paper was then given to witness, and he drew with a pen a rough plan of the place; when he had finished it, the Interpreter said, "My Lords, this is a drawing made by the witness of the room in the grotto where the statues of Adam and Eve were, and of the place where the cornice was, with the corresponding passage and staircase itself.

Ask him, could a man at work at the cornice in the octangular room, by possibility see the statues of Adam and Eve in the room in which he states them to be? No, he could not.

Why could he not? Because the passage or communication between them is crooked, and prevents the sight.

Ask him whether the statues of Adam and Eve ever stood in any other room in the grotto except that he has already stated? They were not.

Ask him whether the cornice was ever made to any other room in the grotto except the octangular room, since the Princess lived at the Villa d'Este? It was made in the highest rotunda, which is inserted upon the paper plan.

Has there a cornice been made in any other room? The cornice was made in the two rooms in the rotunda, and the square room, as made in the drawing.

Could you see the statues of Adam and Eve from either of these rooms in which the cornice was made?

The witness did not at the moment comprehend the question: it was repeated by the short-hand writer, and explained to him by the Interpreter; when he answered—"No."

When were the statues removed from that grotto? Before the return of her Royal Highness the Princess.

Her return from where? From her journey to Turkey.

To what room were the statues then removed? To one of the Mosaic rooms, which were then newly built in the palace.

Ask him whether these rooms were com-

pletely built before her Royal Highness returned from the voyage? They were.

Were the workmen all removed before the Princess returned from the long voyage;—These rooms had been left by all the workmen before she came.

Were the scaffolds of the workmen also removed before her return—and from the Mosaic room? Yes.

How long before, can the witness say?—About eight or ten days before the Princess's arrival.

Were the rooms at the time her Royal Highness returned from the long voyage completely fit for her reception? They were.

The Mosaic room where the statues were, was it round or square? Where the statues were it was square.

What was the next room to that in which the statues were? In the first of the Mosaic rooms the statues were; the second was a small oblong cabinet.

What was the room beyond that? It was an octangular, or round room with columns.

Could any person at work there see the statues of Adam and Eve? No, he could not, because they were by the side of the opening.

#### Cross-examined by MR. PARK.

How long have you been in the service of her Royal Highness? From the day she bought the Villa d'Este to the day she left it.

Are you a native of that place? Yes, I was born at the Villa d'Este.

Were not the statues in the octangular room when you first went into the Princess's service? They were in the grotto.

Were they in the part of the grotto you have described? They were.

Was that the largest room in the grotto where they were? I did not say it was the greatest, because the square rooms are somewhat larger than the other.

How much larger? Only a little larger, but I do not know the exact dimensions.

How many rooms were there in this grotto? Six, comprising the round and square rooms.

Were they all on the same story?—They were not; there was one above the other.

Describe them. When you mounted the stairs then came a level; (a landing said several peers), then came some more steps and a landing.

Were there many steps? No, only a few from one level to the other; some had but a few between them, and others had more.

How high was the floor of one part of the grotto above the other?

The Interpreter. Will your Lordships permit me to explain? I understand the witness means this; that from the floor of one room you ascended by 11 steps to the floor of another, and that these 11 steps, from the rotunda up to the first room, constituted the height

of that rotunda. That is, in fact, that the rotunda was the eleven steps high.

The LORD CHANCELLOR, by the desire of several Peers, ordered the interpreter to put the last question again to the witness, and then give his answer and explanation in his own words.

The question was repeated to witness, and answered by him.

Interpreter.—He literally says, that from the one room there were 10 or 11 steps to the room above, which 10 or 11 steps constituted the height from the rotunda to the room above.

Do you remember, in fact, that the eleven steps ran up the exact height of the room? Yes, about that.

For what purpose were the different rooms of this grotto applied? To no purpose, except that of seeing a subterraneous place.

Was the room you have described the only room that had the statues in it? The second room had a small female statue weeping on a tomb in it.

Was that the only room which had a statue in it, except where the statues of Adam and Eve were? Yes.

Were the rooms you have described open to each other after you passed the steps? Yes, after the steps.

In what manner? Two rooms communicated together; the first was the rotunda, in which were the statues of Adam and Eve; having then mounted the steps, came the second floor, where the female statue weeping on the tomb was; after coming on the second level there was another room, a Gothic room. There was after that, a passage, and then one step, on the right there were 2 or 3 steps, and there was the rotunda. After that, on the second level, was the second and larger rotunda, where the cornice was made, and after that came some small square rooms.

Then the second rotunda was on the right hand after passing the two front rooms? You turned first on the left hand and then on the right.

Then you had to pass through one end to the other? Yes; but a person might pass also by the left, for there were two openings.

Were there two passages opened? Yes, there were.

Were there no doors? There were not.

No doors in any part of this grotto? None, except at the bottom and end.

What doors were there at the beginning and end? There were two iron gates, or species of gates—open railings.

Could a person see through them? Yes, because the railings were open, and much apart.

Was there a pillar between them for the iron to rest upon? They shut up at the entrance and exit.

But did they open or close upon a pillar or pilastre? They were attached to the wall.

What was there in the middle to support them? They consisted of one piece of iron, and then shut against the opposite wall.

Were there any pillars in any of the rooms of the grotto? There were.

In which of the rooms were there pillars? In the second room after the rotunda.

Of what sort? Small columns.

Look at this plan you have drawn, will you swear it is an accurate plan of the place? I cannot call it an accurate plan, because there is not in it the measurement and the proportions.

How long is it since you came to England? Ten or eleven days.

Did you come direct from the Villa d'Este? I did.

Did you see any person there taking plans of any particular places? I have seen several persons there belonging to the Government taking designs and drawings of the places, but I did not know who they were.

Did you not see an architect of the name of Ratti employed in taking plans of the Villa d'Este? Yes, I did.

When was it you saw him there? I cannot mention the exact epoch.

Within about what time; was it more than a month or six weeks ago? It was more, I think, than about three or four months ago.

Do you mean from the present time?—Yes.

Did Ratti live at Milan or at Como? At Milan.

Did you come over to England in company with any other witnesses? I did.

How many? Fourteen.

Did you collect and conduct them here?—No, I did not.

Who did? The people came themselves.

Who paid their expenses? I don't know.

Did they all pay their own expenses?—They came by their own will, but their expenses were not defrayed by themselves, but by order of Chevalier Vassali.

Did you pay the expenses of any of them? No.

Did you apply to the witnesses before they set out? No.

Not to a single person? To no person.

When did you set out to come with these witnesses? It was on the tenth of September.

Were you examined before you came?—I was.

Where were you examined? At Milan.

By whom? By the advocate Codazzi, and by an Englishman called Henry.

Did you give them the same account as you have given here to-day? All that was true I have said.

Then you said to them all you said here to-day? No, I did not.

Did not you say you told them all that was true? Yes.



And did you not tell them all you have said here to-day? No.

Why did you not? Because they did not ask me the same questions that you have asked me here to-day. (*A laugh.*)

Let us know what it was you were not interrogated about? I have been questioned here to-day of many things that the advocate at Milan did not question me about.

Did you endeavour to get information from those witnesses who had been examined at Milan, before you came away with them? No, I did not.

What sum of money did you receive at that period? I received fifteen Napoleons, of the value of twenty francs each.

Have you received nothing subsequently? I have had some allowance for my expenses.

Do you expect any thing hereafter? I do not.

Have you no expectation of that kind? has no promise of reward been held out to you? If her Royal Highness shall offer me any present; I will not refuse it; but I come here with no other motive than to speak the truth.

Will you swear that you have been promised nothing, either by Bergami or the Count Vassali? Certainly: but if they shall make me any present, I will take it; I will not, however, ask any thing.

Will you swear that you expect nothing? Certainly.

Will you swear that you have never expected any remuneration for coming here? I hardly understand the question.

Will you swear that you have never expected any remuneration for coming here? I say again that I have never had any promise made to me; but if a present shall be offered, I will receive it.

Have you no hope of reward for making your appearance here? I may, perhaps, entertain some hope.

Did you defray your own expenses on your journey here? Not all; I paid for my food.

Did you pay with money of your own? No; with money provided for me.

Provided for you by whom? by the Chevalier Vassali? By the Count Vassali.

By whose means? Through a courier, named Francisco.

What other name had that courier? I do not know.

*Examined by the Peers.*

By EARL GROSVENOR.—Was there any other avenue than what you have alluded to? Yes, there was one between the windows of the grotto.

Was there any column which afforded a view? There was no column to be seen through with the eye of a needle.

Was there a pilaster through which any person could see? There is a column and a pilaster through which it is possible to see the statues of Adam and Eve.

The Interpreter here said, it might be necessary to apprise their Lordships that the original answer of the witness ought to be understood as signifying rather "at" than "through" the column.

The EARL of LAUDERDALE thought the distinction was highly important, and that the point in question ought to be distinctly ascertained.

The EARL of LIVERPOOL expressed himself to be of the same opinion.

By EARL GROSVENOR. In what part of the place of which you are speaking was the column situated? About the centre.

Whereabouts was the pilaster at which the statues could be seen? It was near the column.

Somewhere near the column? Yes.

Was the column before or behind the pilaster? It was before it.

Mr. Denman submitted that the two or three preceding questions and answers had better be formally taken down in writing, and read by the interpreter.

Mr. Brougham enforced the same suggestion; and the questions being again put to the witness, evidence to the like effect was given. It was in substance that there was a pilaster and a column, and that the column was in front of the pilaster; the statues of Adam and Eve might be seen from them.

Did you so state it at first? I believe so; I meant to state it, according to my understanding of the question.

Have you a very distinct recollection of the circumstance? Yes, quite distinct; I have drawn up a plan of the building.

Have you that plan in your possession at this moment? I have.

Dr. Lushington here submitted that this plan was admissible as evidence.

The EARL of LAUDERDALE thought that the regular course of proceeding would be to call on the witness, in the first instance, to swear to the truth and correctness of his plan.

By EARL GROSVENOR.—Are you sure that the plan is correct? I am not sure with regard to the measurement of the dimensions, but I know it to be a faithful representation of the disposition of the various parts of the room. So far it is positively correct.

By Mr. PARK.—Where was this plan drawn up? It was drawn up in the neighbourhood of this place.

How long since? About an hour, or an hour and a half, before I came here.

By EARL GROSVENOR.—Is it correct according to the best of your recollection? It certainly is.

How must a person stationed behind the pilaster be situated, in order to command a view of the statues? On the opposite side; that is, the statues are on the opposite side.

Are you quite sure of that? I am quite sure.

What are the distances? The pilaster is No. 1, the column No. 2, and the statues No. 3.

Was there a passage leading into the rotunda, and forming a communication on the side opposite to that in which the cornices were? There were two passages by which people might go in or out.

Do you know why there were these two passages? There was one for carrying in materials, the other being too narrow for that purpose.

Do you remember that distinctly? I do.

You have no doubt as to that part of the building? I have no doubt.

By the EARL of BLESINGTON.—Had those statues of Adam and Eve no fig-leaves upon them? There was a vine-leaf made of tin, and painted green.

Were they hung upon a wire? On a brass wire.

Was the vine-leaf moveable upon the wire? It could be moved.

Had both these figures these vine-leaves? Yes, both.

When the figures were moved into the Mosaic room, as you call it, the vine-leaves remained upon them? They remained there, and are there to this day.

Did you make this plan before you came into the house entirely from memory? Yes.

**GIUSEPPE GAROLINI sworn.**

*Examined by Mr. WILLIAMS.*

From what country do you come? From Milan.

What business do you follow? I am a master mason.

Were you ever employed by the Princess of Wales in the Villa d'Este? I was.

Do you know a person of the name of Ragazzoni? I do.

Was he a master workman, or a common workman? A daily workman.

Had he any men in his employ at Villa d'Este? No; I gave a piece of work to 7 or 8 workmen, and they came altogether to be paid for their work.

Do you know the grotto at the Villa d'Este? I do.

Do you remember at any time any work being done at that grotto? I do.

Is that the work to which you alluded when you said that you let out some work to Ragazzoni, and some others? Then they worked by day, and not by the piece: it was at another time I gave them a piece of work.

Do you remember any cornice-work being done in any part of the grotto? I do.

Do you recollect any statues of Adam and Eve in the grotto? I do.

Was there any cornice-work done in the room where Adam and Eve were? No: nothing at all.

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Was there any cornice-work done in any other part of the grotto? At the top, where there was an octangular room: there was another room, and they were at work in no other rooms than those.

State particularly whether they were at work upon the cornice? They were.

Had they any scaffolding for the purpose? Yes, to reach the ceiling.

Was any scaffolding put up in any other part of the grotto than that? In no other but the two rooms, the octangular room and the square room.

Did the square room join the octangular room? Yes.

Was the square room or the octangular room nearer to the statues? The octangular room.

I ask whether, from the place where the scaffoldings were set up in order to work at the the cornice, any person could see the statues of Adam and Eve? In no way could those statues be seen, because the passage is all winding.

Do you mean the passage from the square or octangular room to the place where the statues were? Coming from the octangular room there is another room, then another passage, and then another room, where the statues were.

Was the passage you have just described the winding passage to which you alluded? Yes, winding, and there are steps.

Do you know a person of the name of Rastelli? I do.

What is his other name? Giuseppe; I know no other.

Have you seen him in England now? No.

Do you remember to have seen that Rastelli before you left Milan? He was away from Milan when I came away.

Did you see him at Milan before you left Milan for England? Much time before, we had been together at an inn.

Do you recollect, at any time, any thing being said about your having worked for the Princess?—

The Solicitor-General begged to know to what part of the evidence of Rastelli the question last put was directed.

Mr. Williams, in a low tone, mentioned several pages in the printed minutes. The question was then repeated by the short-hand writer.

The Solicitor-General objected to any inquiries as to conversation between the witness and a third person. He should be glad to hear any reason why the question was put.

Mr. Williams.—I do not want the conversation between the parties, but I wish to establish the fact of Rastelli having applied to the witness to give evidence in this country against the Queen, and tendering him

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money, or what was equivalent to money, to induce him to do so.

The Solicitor General.—I object to that, unless my Learned Friend can show in Rastelli's evidence any such circumstance mentioned, and that the other side relied upon it.

Mr. Williams said, that he apprehended their Lordships, for the purposes of justice, would consider it extremely material to ascertain what inducements had been held out to witnesses—what hopes or expectations of profit had been raised in them, in order to make it desirable for them to give evidence in support of the bill. Independent, however, of this general ground, there was a particular reason, in this instance, for allowing the question to be put; for it appeared in several parts of the printed minutes, and from the admission of Rastelli himself, that he had been employed by the Milan Commission to collect evidence, and that he had actually sent one of the witnesses. These facts appeared on pages 234 and 411 of the printed evidence. The analogies of the courts below, regarding the responsibility of agents, would not apply in this case; for it was impossible to show that Rastelli was agent to the promoter of this measure, whoever it might be. Nobody knew who was the supporter of the bill; it was a mystery not yet solved. There was, however, fixed upon Rastelli a degree of activity, or to speak in the language of the law, of agency, which showed that it was very material to inquire into the steps he had taken.

The LORD CHANCELLOR interrupted the Solicitor-General who was about to reply, by observing that it was four o'clock, and that the discussion could not probably, be concluded to-day. Before the Counsel withdrew, however, he wished to refer them to page 412 of the printed minutes, where it actually appeared that Rastelli had sworn that he had not offered money to any body to become a witness. If so, the other side had a right to contradict him.

Mr. Brougham observed, that Mr. Williams rested his question upon two grounds—first, the agency of Rastelli; and next, the propriety of contradicting him.

The LORD CHANCELLOR added that the passage he had pointed out seemed to him very material.

Mr. Brougham thought that it in fact dispensed with the necessity of further argument on the point.

The Solicitor General said that he was not aware that Rastelli had so sworn; but if the other side would call any body to show that he had offered money to witnesses, they had, of course, a right to do so.

The Lord Chancellor then adjourned the house.

## House of Lords,

FRIDAY, OCT. 13, 1820.

The House met at the usual hour, when prayers were read, and the Peers called over.

The EARL of LAUDERDALE made some observations relative to Lieut. Hownam's diploma as a member of the order of St. Caroline, and, as we understood, intimated that he would require it to be produced.

A PEER observed, that, as this was a cold day, it would be as well, before counsel were called in not to have all the windows open.—(Hear.)

The officers of the house immediately shut all the windows; several Peers objected; and the Lord Chancellor desired the officers to remember that there was a difference between having all the windows open and all shut.

The EARL of LIVERPOOL said that the windows should be opened on one side only, and not on both sides at once. They should be opened on the south side on one day, and on the north side on the other.

The LORD CHANCELLOR desired the officers of the house to open the windows on the south side.

The EARL of DERBY (who was in the gallery) pointed to the end of the house opposite to the throne, and said that was the south side.—(A laugh.) There are no windows in that part of the house.

The LORD CHANCELLOR.—Then the side on which the wind blows shall be accounted the south side (Laughter); so open the windows on this side to-day (pointing to the right.)

The Counsel were then called in, and the adjourned proceedings of yesterday resumed.

GIUSEPPE GAROLINI further examined by Mr. WILLIAMS.

You stated, yesterday, that you were a builder, and had been employed by the Princess of Wales at Villa d'Este? Yes; I was head master.

Were you paid as you did the work, or was your bill suffered to run up? Before her Royal Highness set out on her long journey I was paid regularly; but after her departure I entered into a contract of 75,000 livres. I did the work under the directions of Ratti, who was the engineer or architect; he made me build several other things, amounting in all to 145,000 livres.

I ask you if you saw Rastelli any time when that sum was owing to you? I did.

Do you remember any mention being made of that sum by Rastelli; or did he speak about the payment? He asked me what was the amount of my credit against her Royal Highness? and I answered, that, deducting what had been paid, it was 45,500 livres.

Was any thing said about the manner of your being paid? There was.

What was it?

The Solicitor-General submitted to their Lordships that this conversation between Rastelli and the witness could not be evidence.

The LORD-CHANCELLOR thought the witness might be asked whether Rastelli made him any offers for coming here; for it appeared from the printed minutes that Rastelli had sworn that he had made offers to nobody.

The Solicitor-General observed, that Rastelli had not been asked any question with reference to the present witness. He must have been interrogated as to his conversation with the individual witness, to lay a ground for such an examination as that now proposed.

The LORD-CHANCELLOR referred again to the minutes, but said that the Solicitor-General had certainly stated the rule of law.

The Solicitor-General was convinced that their Lordships could not fail to perceive the awkward situation in which a witness might be placed if another witness was to be examined respecting a conversation said to have taken place between them, though the first witness had never been asked any question about that particular conversation. If the first witness had been asked any question respecting that particular conversation, he might have stated circumstances which would have explained it satisfactorily. The course of examination now proposed was most dangerous, especially in the manner the present proceedings were conducted. All the evidence was printed, and sent over to Italy. Thus persons in that country had the opportunity of looking over the printed testimony, and then coming here and giving evidence upon it.

Mr. Williams.—This is a mode of giving evidence to a fact. The witness had not been asked respecting a loose conversation, but a fact which it was not likely that Rastelli could forget. There was nothing awkward in the circumstance except the offer which had been made of money to the witness to induce him to give evidence against the Queen.

The LORD-CHANCELLOR said, that instead of calling on the witness to state the whole conversation he had had, he might be asked whether Rastelli gave him money.

Mr. Williams proposed to ask—Did Rastelli suggest any mode by which you were to be paid?

The LORD CHANCELLOR said the object of the examination, he apprehended, was to ascertain whether the witnesses had been offered money, or whether he knows that Rastelli had offered money to any other person to come here. Ask him whether money was offered to him.

Mr. Williams.—“Or money’s worth.”

The LORD CHANCELLOR.—“Yes, that is the same thing.”

The EARL of LAUDERDALE thought the witness ought to be examined to a particular fact, and not generally. The Counsel for the defence inquired generally whether the witness had proposed to any witness that he should go to Milan. The Noble and Learned Lord had said it might be asked if Rastelli had “offered any money,” or “money’s worth,” said the Learned Counsel; but now they not only went on to inquire if he had offered money or money’s worth, but whether he had given any direction to the witness relative to the way in which he should seek payment of his bill.

The LORD CHANCELLOR suggested that the question might be put in these terms—Do you know whether Rastelli offered you or any person money, or any advantage, for coming here? When that question was answered, it would be matter of consideration whether further questions relative to the conversation should be asked.

The EARL of LAUDERDALE objected to the proposed question.

After some discussion it was proposed to divide the question, and the examination proceeded thus:—

Did Rastelli offer you any money? He told me, if my account was not liquidated, to give it to him, and he would contrive to get me paid.

Did Rastelli say what you were to do for that? He told me to give him my account, for there were Englishmen at Milan, and he would see me paid.

Did Rastelli say what you were to do for getting the bill paid? He told me that if I had any thing to say against her Royal Highness, for I had been long in her service, to tell him, and he would endeavour to make me be paid.

At the same time of which you are speaking, had you any further conversation with Rastelli about what he was doing?

The Solicitor-General objected to this question. It could not be made evidence.

Mr. Williams said, that he could show the evidence to be admissible on general grounds: but he would first call their Lordships’ attention to the facts respecting Rastelli. That witness, in his evidence, denied that he was an agent of the Milan commission. He was asked (see page 411 of the minutes) “Did you not then become one of the most active agents of that commission?” That question was objected to by the Solicitor-General, but it was put and answered thus—“I was not an agent; they have given me orders only as a courier, which is my profession, and as a courier I have travelled.” Here, then, is evidence from Rastelli himself of his denial of his agency for the Milan commission. Now the evidence he proposed to tender proved that this Ras-

telli, who has himself, as may be seen in the minutes, already acknowledged that he was employed in bringing persons together, or getting evidence for the commission, and has mentioned the names of individuals he so brought, has also stated to this witness that he has been active in procuring testimony, and giving persons sums of money to come to Milan. Now upon that narrow ground he submitted that the evidence offered ought to be received. In addition, however, to the evidence of Rastelli himself, there is, in pages 296, 234, and 235, facts stated by others respecting his agency and active interference in procuring and conveying persons to the Milan commission to be examined. The agency of Rastelli for the collection of witnesses he must therefore consider proved. He fully admitted that in all cases in the courts below it was necessary, in order to make the acts of an agent evidence, to prove, as a preliminary point, the connexion of such agent with the principal. But in those courts there was always a known party, to whom reference could be made, as a plaintiff, on any question of agency. In the present case, however, the analogy completely failed; for here there was no ostensible plaintiff. Were they, for want of a party on the other side in the character of a plaintiff, to be denied the means of proving acts of agency? It certainly was a very narrow ground of objection, and could not be very satisfactory, that, because there was only one party in this cause, namely, her Majesty, the conduct of agents on the other side could not be given in evidence. The facts which he proposed to prove surely could not be immaterial whenever their Lordships came to consider the credibility of the evidence. A mass of evidence had been collected. Was it unimportant to ascertain whether it had been given under the notion that the witnesses would derive benefit from their testimony, or whether it was perfectly disinterested? That would be a fit question for the consideration of a jury, and it surely could not be immaterial when put to their Lordships. In consequence of the disadvantage of there being no plaintiff in the case, and there being on the opposite side only a shadow, in the form of the Attorney and Solicitor-General, instead of the substance of an adverse party, they certainly could not proceed in the manner which would be required in the courts below. But would it not be an accumulated aggravation of disadvantages if their Lordships were to allow the other side to turn round and say, Because there is no plaintiff, you shall not prove agency? The first complaint of the counsel for the Queen was, that there was no plaintiff: were they to add to that, among other things, the not being allowed to prove the agency of Rastelli? It was material for their Lordships to know, if possible, how the mass of evidence before

them had been got together, and that could only be done by the course of examination he proposed to pursue.

During Mr. Williams's speech the Lord Chancellor asked whether the witness (who was still standing at the bar) understood English.

The Solicitor General said he had asked him that question yesterday, and he answered that he did not.

Mr. Brougham said the witness did not understand a single word of English.

Mr. Brougham said that very little remained for him to add to the clear and able arguments of his Learned Friend. The first purpose for which they ought to be allowed to go into this examination was to contradict the testimony of Rastelli, for he denied in positive terms that he was invested with any agency, and asserted that his occupation was confined to the office of a courier. This assertion of Rastelli's their Lordships would find in all of the evidence. In the first instance then, they would prove by the evidence which they now offered, that Rastelli was in another employment and other capacity than those of courier, and that he carried on a very active agency. This would be proved from his own mouth—that was, from what he had himself said to another.—If, then, he denied this, which they would prove, it amounted to a contradiction of his testimony. Undoubtedly this was not the most direct the ordinary evidence for such a purpose. The persons induced to give evidence by Rastelli would have been the proper persons to contradict him, and after he had been asked particularly whether he had offered any inducement to them.—This evidence they would have offered, if they had known those persons, if they had any warning of their existence, and of the intention to call them, and if they had been prepared to cross-examine them as to this point. They would have then given what, *ex concessis*, would have been good rigid evidence of the falsehood of Rastelli's testimony; for they could have then asked Rastelli, "Did you not tell such and such a person to go to Milan? Were you not employed by such and such persons; and did you not use such and such inducements to such and such persons to give evidence?" They could then get the contradiction from the very persons who should have been by name mentioned to Rastelli. This would have been the more regular way; but unprepared as they had been, ignorant as they had then been of the names of witnesses, as of this witness, they were entitled now to obtain the contradiction in the mode proposed.—In the courts below it would be allowed in such circumstances, although he confessed, as his Learned Friend had done, that it was not the most ordinary way. The other ground on which they were entitled to go into this evidence was, that not only that a



contradiction might be proved, but because they had a right to give evidence of all the dealings and sayings of Rastelli in the character of agent. They contended that they had let out enough in cross-examination to prove that Rastelli was intrusted with so much agency and employment—by whom? By the Milan commission. Their Lordships would find this proved in the cross-examinations of Ragazzoni and another, pages 226 and 234. Rastelli was himself asked, in cross-examination, "Did you take a letter to Credi?—I went with a letter to a man of the name of Credi. Did not you yourself persuade Credi to go to Milan?" Here Rastelli told the means of persuasion which he had used. "I told him that the advocate and the commission at Milan required him, and that both his expenses in the journeys in going and coming would be paid." And again he said that he had taken four or five different journeys; he said indeed as courier, but when he did that which was not within the province of a courier—when he promised money in the name of the advocate and commission at Milan—it was quite clear that he had been, in fact, an agent. His Learned Friend, Mr. Williams, had said that there were no parties in this case, as in all other cases; there were not, and that occasioned infinite difficulties to them in the defence. But he did not agree altogether with his Learned Friend that they could find nothing but shadows for the prosecution. The Milan commission was no shadow, but a most substantial antagonist. They had not found the Attorney and Solicitor-General, he could tell their Lordships, to be shades. The parties were the Milan commission, as much as A and B on the record were parties. The fact, then, that Rastelli had acted as agent to the Milan commission, let in his doings and sayings as most material evidence. For this reason then, as well as for the purpose of contradiction, they were entitled to proceed with the examination, as proposed by his Learned Friend.

The Solicitor-General replied, that, as to the first ground, Rastelli said he had not acted as an agent generally, but as a courier, and that as a courier he had directed Maurice Credi and another individual to go to Milan. It was perfectly clear, then, that his Learned Friends were not at all entitled to go into the proposed evidence on the ground of contradiction; for Rastelli himself had said that he was an agent in a certain qualified way, namely, as a courier; and because, for the purpose of contradiction, they ought to have asked particular questions as to particular individuals. Upon the first point there was no ground then; upon the second there was still less ground. It was not enough that Rastelli acted as agent, unless he acted as agent by the authority of the Milan commission. Even if it were agreed that the acts of the Milan commission were evidence, was it to be contended, if they had employed

Rastelli as courier, that every thing he had said could be admitted as evidence? But he would still go further: even if he had acted by the authority of those at Milan, and called Milan commissioners, his sayings could not be evidence. The bare statement of this was sufficient. Undoubtedly it had been competent to his Learned Friends to have asked any questions of Rastelli respecting his sayings or promises to particular individuals, and to contradict his answers if they were not true. But as they had not pursued that course, and had neither to Rastelli himself, nor to the witnesses supposed to have been induced by him, put any questions, it was most extraordinary now to inquire into whatever Rastelli had done or said through Italy. His Learned Friend had complained that they had not had time to be prepared. As to time, their Lordships would recollect that his Learned Friend had fixed his own time. Their Lordships had granted every indulgence, if he might use the word, in respect to time. It was, therefore, too much now to say that they were entitled to go out of the way for want of time. There was a difference, it appeared, in the opinions of his Learned Friends; Mr. Brougham considering the Milan Commission a substantial party, and Mr. Williams saying there were no parties. It was not for him to reconcile these differences; but when they differed on substantial points, they ought not to come forward to ask their Lordships to let them give evidence depending on those points.

Mr. Brougham explained, that he had not complained that he had not had time to prepare the defence, but that when Rastelli had been called he had not had time to learn what he had done as agent, and to whom he had applied for evidence against her Majesty.

The Solicitor-General asked why he had not then availed himself of the protracted cross examinations which had been allowed.

Mr. Gurney was directed to read the question.

"At the same time of which you are speaking, did any further conversation with Rastelli take place with respect to what he was doing?"

LORD ERSKINE asked the preceding questions to be read. (This being done, his Lordship proceeded.) Their Lordships had evidence before them that Rastelli had denied on oath what was proved to have been done by him. If, then, he had intermeddled—he would not use a stronger word at present—but if he had intermeddled in getting evidence against her Royal Highness, the counsel had a right to inquire into that fact, and it was important for their Lordships. He attended there from day to day, to do all in his power that the strict rules of the law might be attended to as far, in the situation in which they

were placed, their proceedings could be assimilated to ordinary proceedings: but it was essentially necessary that all the light should be let in upon this dark transaction which they could let in: he lamented exceedingly that in this transaction they were at the present moment so much in the dark as to the Milan commission. He meant not to impute unfair means of procuring evidence to the Noble Lord at the head of his Majesty's government; he disdained the idea of any thing of the kind. But when they knew that a commission had been appointed, that examinations had undoubtedly taken place, and that evidence so given originally was afterwards brought before their Lordships, they ought to be informed of the origin and character of all this previous proceeding. What light had they upon the manner in which the witnesses became first known, and how they were brought to Milan, and examined upon this subject? What light had they upon any step in the proceedings, before the case came to their Lordship's bar? He, for one, had no light at all upon those subjects; and he ought to know, from examinations, and cross-examinations, and every way in which light could be obtained. As to Rastelli, now was the opportunity of cross-examining him on points which had not been known before. The question now, therefore, was, how the contradictions to Rastelli, or the acts which he had done, could be brought before them. Either their Lordships must assent to the request of the Learned Gentlemen at the bar, or Rastelli must be called back, as Majocchi had been. His opinion was, that it would be the better course to call back Rastelli: but was there not agency already admitted? Could any thing be clearer proof of agency—and, he would add, of corrupt and profligate agency—than the attempt to get a witness against her Royal Highness by saying that there were Englishmen at Milan who would see money paid to the witness in return? (*Hear.*) Was there a Noble Lord in that House who did not believe that the agency extended farther than they had traced by any inquiries or statements? If not, who could say that it was not necessary to have the whole of this profligate proceeding discovered, discussed, and well considered, before they formed any judgment upon the evidence in general? Before that was done, they could have no means of ascertaining the truth. When their Lordships deliberated upon the general question now at issue, there must be nothing left dark, nothing must remain behind. He perfectly agreed that their situation was very different from that of ordinary trials. That was the great evil of the present proceeding, that it left the ordinary course of justice, and intrenched on the ancient constitution of the land. (*Hear, hear.*) Care ought therefore to be taken by their Lordships that this evil should not be magnified. Could he have any faith in the case as it stood at present before

their Lordships? Rastelli himself had admitted a corrupt agency—he said distinctly a corrupt agency, from the facts which were already in evidence. He said, therefore, that their Lordships must in some way or other know further respecting the acts of Rastelli; they must know further, or they could not know the truth, or judge with safety in this case.

The EARL of LIVERPOOL rose, not to give any opinion upon the question immediately before the House, but to say that the Milan commission—that was, the gentlemen at the head of it, or rather the gentleman at the head, might be called to the bar. No objection would be made to his being called and examined at their Lordships' bar at present, or in any part of the proceeding that may be thought most convenient. This was all he had to observe upon this subject. No objection whatever would be made to giving their Lordships the whole history of the Milan commission.

The LORD CHANCELLOR said, that it was impossible for any man who felt as all their Lordships ought to feel, to doubt that after what had passed, the gentlemen of the Milan commission ought to have an opportunity of explaining their conduct. It was not consistent for him to make any observation on the evidence before them, as establishing or contradicting any former evidence, for all the evidence would come to be considered hereafter; but it was not consistent with his duty to give any character, good or bad, to any witness. As to the present difficulty, he would say that it did not at all follow, that because the answer might prove nothing, therefore the question ought not to be put. To be sure the legal weight depended on the answer, and so it would be here. If the agent had done what was not within his power, that would not be the act of his principal; but it might be proper to inquire into it for other purposes. If the allegation were that he had offered money, and ten persons should say that he had done so, the mere fact of his having offered money would not become the act of his principal. But if they should say that he had offered no money, and it should be said that he had acted as an agent, the principals were not thereby proved to be implicated. Still the question was to be put, and they must take the answer, and for this reason:—if he had said that he had not acted as an agent, and it could be proved by the answer that he had acted as agent, although that would not exclude the whole of his evidence, yet it would be a ground for the judge examining most jealously and anxiously his evidence in other matters. Having said so much, he must now advert to a great deal of the evidence on this point, because they were not now in the situation in which they would have been if no previous examinations had taken place on the subject. The evidence to which he wished

to call the attention of their Lordships was in pages 410, 411, 412. At the beginning of page 410 were these questions and answers?—

“Did you offer yourself as a witness to the Milan commission, or did those who pay you your pension induce you to go before them, or how? I have not been to Milan for this purpose; but I am settled at Milan.”

“The question was not, whether you went to Milan, but where you induced to go to the Milan commission, or did you go voluntarily?—I have been sought after.”

Why, this man had no doubt as to what was meant by Milan Commission, as appeared by his answers. He was asked again—

“How soon after Reganti spoke to you did you go before the commission?—The day after.”

Here was an evident admission of his knowledge of a commission. At the beginning of page 411 he was asked,

“Did you not become a very active agent of the commission? I was not an agent; they have given me orders only as a courier.”

He would stop here to point out a distinction which might not appear important to those of their Lordships who were not accustomed to consider how important distinctions sometimes were. It was very important. A person might be very active in procuring witnesses, and yet be very different from an agent; and an agent on the other hand may, in a great many senses, have quite a different name, but in substance act as an agent. Then nothing could be inferred against the principal, unless the agent had his authority for the particular act. His Lordship read further through this part of the evidence, to show that there was proof of Rastelli having been employed by the commission at Milan. Upon reading the name of Mr. Cooke, his Lordship said, that when that name fell first from his lips, in course of this proceeding, he must state that he had known him for nearly half a century as one of the most honourable of gentlemen. A higher character for integrity and honour, he declared upon his honour and veracity, he had not known. There was then evidence that Rastelli had been employed by the Milan commission; and the question thence arose whether what he had said and done in that employment was evidence? He submitted to their Lordships whether, after so much evidence of his sayings and doings had been given, they would not now hear evidence which they might not hear if the preceding evidence had not been given?

LORD ERSKINE said, that let the commissioners be as righteous as the righteous could be, the witness might have been corrupted, and that was equally fatal to the inquiry in this case.

The EARL of CARNARVON said their Lordships were placed in such a situation, that every step they advanced they found themselves involved in greater difficulty and increased danger. They ought not to proceed one step farther in this odious, detested, and infamous proceeding (*Hear*), without inquiring whether the agency which procured evidence was or was not an active subordination of perjury. (*Hear*.) Whatever office or authority Rastelli might have been intrusted with by the commission, if he assumed an agency to suborn false evidence, that was sufficient to throw practical discredit on all the witnesses. (*Hear*.) Till this subject could be traced to the fullest extent, they could proceed no further; and if it were not traced, this ought to be the conclusion of the present inquiry. (*Hear*.) If there existed now any difference of opinion upon this subject between any two Lords in that House—if, after tracing this inquiry into the agency to the conclusion, that there had been subornation of perjury, could there exist in any mind, well constituted, a doubt that their Lordships should proceed no further with this bill? (*Hear*.) If this were proved, he could not believe that there was one Noble Lord in the House who would not say that not a moment ought to be lost in rescuing this country from the greatest curse which either the folly or the wickedness of men had ever inflicted on a nation. (*Hear, hear, hear*.) If the subornation of perjury were proved, and their Lordships should proceed to legislate upon palpable lies and purchased fabrications, the result would be to bring into contempt and disgrace every institution that was ancient and honourable in the land—every thing that was valuable to themselves—and every thing on which the future prosperity of the country stood. (*Hear, hear, hear*.) He could not consider this as a dry question of technical law. They had resorted to a mode of trial unknown in latter and better times; and a mode which, if warranted by the most pressing necessity, would prove most calamitous in its consequences. But it appeared from the evidence, which was concluded on one side, that from the lapse of three years, if the legal construction of treason had applied to this case, it could not be tried in any tribunal in this country. As a subject of policy, this proceeding could not even be favourable to the private interest of the individuals who instituted it, and who were entangled in its progress in every evil and danger. (*Cheers*.) The further they proceeded the more they would be entangled, and the more fully would they bring into disgrace every institution which they ought to hold up to respect and confidence. (*Hear, hear*.) He was sure it had excited feelings in this country, which, not only could never be excited in England, but in any country, without the utmost danger, but which, in England, where public feeling was so general and so powerful, and where the

true character of our institutions formed their only security, could not be excited without sapping the foundations of all our institutions, the venerable bulwark of order, justice, and religion. (*Hear, hear, hear.*) He felt, therefore, bound to call on their Lordships to stop this proceeding. If this fact were substantiated, their Lordships must agree with him in thinking that they could not render a greater service to the parties interested in this bill—if any such parties existed, and he believed there must be some who were interested in its success, than by ridding them of such a measure; a measure which, if persisted in, would, like a mill-stone, drag them down to destruction, and with them every sacred and valuable institution in the country. Their Lordships had now got so much evidence of subornation, that, in his opinion, they could not drop the farther inquiry into that subject.

The EARL of DONOUGHMORE (counsel having been ordered to withdraw) complained that, after what the Learned Lord on the woolsack had said on the law of the point in question, his Noble Friend (the Earl of Carnarvon) had interposed with such a speech as he had never before heard on such an occasion. The question being whether their Lordships should receive a certain point in evidence, his Noble Friend had interposed and had broken out into invective against the general principle of the bill, which had been examined and discussed before the proceeding was entered upon. Was ever such an opportunity taken of expressing an opinion pending the hearing of evidence on a trial?—Every inflammatory topic that had been urged either in that house or out of doors, had been introduced by his Noble Friend, and the attention of their Lordships had thus been called away from the great and important consideration immediately before them. When the greatest part, he trusted, of the evidence was over, instead of allowing their Lordships to come to a grave and solid conclusion on the subject, his Noble Friend started up, and, after a grave argument from the table, came with a short motion or question to put an end to the bill at once. He would not trouble the House with any argument in reply to his Noble Friend, because it was not necessary.—(*Hear, hear.*) He had stated the idea he entertained of what his Noble Friend had thrown out; and, having done that, he would leave it to their Lordships' consideration.

The EARL of CARNARVON said, he had been accused of interrupting this proceeding in a strange way, to put an end to the bill. Now, what he had risen to call on their Lordships to do was this: upon a case being established by evidence, that an agent connected somehow or other with the Milan commission had acknowledged himself guilty of bribery—on that being established, he had called on their Lordships to put an end to the

proceeding.—(*Hear, hear.*) He could, with confidence, appeal to their Lordships whether this had not been the object of his remarks.—(*Hear, hear.*) His Noble Friend had asked, if ever such a speech had been heard on such an occasion? In reply to which he would call on his Noble Friend to show him any proceeding such as the present.—(*Hear, hear.*)

Counsel having been called in, the examination of the witness was resumed by Mr. Williams.

At that same time of which you were speaking, had you any conversation with Rastelli about what he was doing as to the witnesses? The first time that I had any conversation with him I was coming from the states of the Pope, and had a conversation with him in an inn. And afterwards I have had conversations with him in other places; but then we talked a little on this subject, and then turned to other discourses. Another day, when I was coming out of the custom-house at Porto Toso, I met him, and we were then talking about the witnesses. He told me he had been to my country (Cazzoni) about witnesses, and that, while there, he went to ask one witness, and that witness went to ask another, and that one another. Then they came to dine together, and then he asked them if they wished to depose against her Royal Highness; and then he asked them if they would go to Milan with him. (Some objection being made to the translation "if they wished to depose," the interpreter corrected it into "whether they were willing to depose.") Then they breakfasted at Bredati, coming from Cazzoni; from Bredati they went to Musoc, and there they dined. When they arrived at Milan they went altogether to the inn of St. Clement's. When they were at the inn, Rastelli told the innkeeper to give them every thing that they wanted for their victuals. And thus, one after another, he took them before Vilmarcati, and the other agents that were there.

On any of these occasions did he say that he had paid any money to these witnesses?

The Solicitor-General objected to the question being put in that leading form.

I ask the witness whether Rastelli said any thing about paying them money? He told me he had given them money; that he had kept them seven days in the inn, and had paid them 40 francs. He had paid them 40 francs each.

Did he say any thing about the expenses besides? He told me he had given all these people who came from my country 40 francs, but to Ragazzoni he had given 50 francs. He also gave 50 francs to Bruza.

Any more? He gave 40 francs to Paolo Ragazzoni, and 40 francs to Bai.

Any one else? I think to Francisco Rosa, but I am not sure. Ambrosia Gaulini, of Leghorn, also had money.



I ask you now whether or not at the time when the money was mentioned of which you have given an account, any thing was said of their expenses? He told me that when he went to my country he employed a post-chaise, and paid for the postage.

Who paid the expenses of these people at the inn—did he mention that? There were many from my country, and they were all at the inn.

The witness does not answer the question. Did Rastelli say who paid the expenses of the inn? He said he paid them in the day forty francs; and then Rastelli paid the innkeeper, because they had forty francs free.

*Cross-Examined by the SOLICITOR-GENERAL.*

Where did these persons come from to Milan? They came from Cazzoni, my country, and he brought them to Milan.

How many miles altogether did they travel? Some of them twenty-eight miles, some twenty-nine or thirty.

Do you mean that they had twenty-eight or thirty miles to come to Milan? I do.

You said something about Raggazoni; where did he go from? Rastelli came to my country, and then sent Brusa word to fetch Raggazoni, who was four miles from Cazzoni.

Do you mean 4 miles farther from Milan than Cazzoni? Nearer.

Then, did he go to Cazzoni that they might all go together from that to Milan? He came with Brusa to Cazzoni, and next morning they set out.

Brusa, then, in point of fact, was sent to bring Raggazoni there? He was; Rastelli sent him to fetch Raggazoni.

How long were they going from Cazzoni to Milan? A day.

And they took of course another day to return, I presume? As to their returning, they went as they chose.

With respect to the grotto you mentioned yesterday, how far was it from one extremity of it to the other—was it forty or fifty feet? I do not remember that. I have been in it every day, but I have not paid attention to the number of feet.

Do you believe it to be forty or fifty feet to the best of your recollection?—

The Interpreter stated that the witness said it was more than fifty *passi*, but he (the witness) did not seem to understand the question correctly. He added, however, that he could tell the measure in *braccie*.

Ask him whether it was more than twelve or fifteen *braccie*; if he will swear that it was more? I will not swear, because I have not measured it.

Will you swear that, to the best of your recollection, it was not more than twelve or fifteen *braccie*?—

No. 46.

The witness (looking round the house) said it was longer in a straight line than from the folding doors at one end of the room to the throne at the opposite end.

What have you been paid for coming here? Pay, I have not received; but I made my calculation about my business, and the time I had lost with an architect, and another person, a doctor or advocate, whom Gen. Pino sent to me, wishing me to make this writing, because my wife and children would not allow me to go. At Michaelmas-time, at Milan, people change their houses, and there is much more to do for people of my business; and I was obliged to get another man to go on with my business. Another man I sent to the country, to attend to my workmen; for my son I could not send, because he conducts my business at home, and pays the men. And, lastly, I could not undertake any business for any other time, because I did not know how long I should be absent. They told me I should be absent about two months; and whenever I cannot take work at that time of the year, I must wait it the whole year. On this I made my calculation; and thus they agreed to give for the year's loss, 2,100 francs.

Besides that, are your expenses paid? They are.

What was the name of the advocate with whom you made this agreement? I do not know; I did not ask his name.

Does he live at Milan? He does.

Was it Vassali? No.

Vassali, was he present at the time? No.

Have you seen Vassali on this business? At Milan; yes, after the writing had been made.

Did you never see him, before that writing was made, upon the subject of this business? I never remember seeing him before.

Where was it that you met Gen. Pino? Gen. Pino was at his house while I sat me down.

What! Did you see Gen. Pino on the subject of this business before you signed that agreement? I have not seen Gen. Pino there, before or after. Sperati was coming down stairs from Gen. Pino, for he had been with him above stairs; and Sperati said to me that he had told Gen. Pino, that, if I was willing to go, he would take care to make me an indemnity for my loss.

Was this agreement, of which you speak, made with Gen. Pino? Did Gen. Pino undertake to pay you? I have not seen Gen. Pino. Sperati was coming out, or down the stairs of Gen. Pino's house.

Who then was to pay the witness the money for which he tells us he has stipulated? Vassali.

At the time you made that agreement (I mean when you met Vassali), were there other witnesses there making agreements? No; Vassali was not present when I was



making the writing. He had not the slightest concern in it, except to see that I should be paid.

You said just now that Vassali was to pay you: was it so? Vassali was to pay me.

Now you have told us of a bill, that was due to you from her Royal Highness the Princess of Wales: has that since been paid? She has paid me entirely.

When was that paid? I had been paid, partly, at the end of January, and I was paid further in March or April of the year 1819.

You have told us of some conversation that you have had with Rastelli, and of meetings of witnesses; I want to know whether that money was so paid by her Royal Highness after or before those meetings? When I spoke to Rastelli about this business, I had not yet been paid by her Royal Highness.

How long afterwards was witness paid? When Rastelli began to talk to me about this business, I told him that I had already received a part of the money. I had then received that money which was paid me in January: and I told him that in a short time I hoped to be paid entirely.

That is no answer. I want to know how soon after the money was paid by her Royal Highness? Your questions confuse me. I have told you that I was talking to you of the month of March, when I was still in advance a part of my account.

I wish then to know how long it is since the last payment made by her Royal Highness? It was made in the end of April or the beginning of May.

In this present year? No, last year, 1819; but I cannot now particularly remember the day.

Will you swear that, besides that agreement of which you have spoken about the 2,100 francs, you have not entered into any engagement with any other person or persons to receive any other sum of money? Another sum of 5 or 6 francs per day, for my family, which was there, I was to receive; but I made no writing for it.

The interpreter (Spinetti) here addressed their Lordships, and was proceeding to say that he was empowered by Counsel to say in his own justification a few words, when he was interrupted by

Mr. Brougham.—Come, Mr. Marchese, continue your translations, if you please. My Lords, we have not authorized him to say any such thing; the fact is, that the Marchese Spinetti was speaking to our own interpreter, and was entering into a conference with him, in order to induce him to become Counsel against myself. (*A laugh.*) I submit, my Lords, that no justification is at all necessary; there can be no necessity for the interpreter to argue against Counsel, and was his duty only to translate.

The Lord Chancellor.—You will allow me,

Mr. Interpreter, to be counsel for you; and to tell you that you have only to translate

(The interpreter bowed, and the examination proceeded.)

Whom was this agreement made with?—With my son.

Between your son and whom? With the same architect, Ratti.

Was Vassali also to pay that? I don't know whether he then received it; but he was to receive it from Marietti.

Besides the agreement by whom you were to have your expences paid, and the agreement about the 2,100 francs, and this payment to your son, will you swear that no promise or expectation of any other payment has been made or held out, either to yourself or any member of your family? I contend that my days and time should be considered during the time I am away.

Do I understand you right, then, that your son is to be paid these 5 or 6 francs a day, and that you are to receive these 2,100 francs besides your expences, and that your time is also to be paid for during your absence? For the loss of my time it is that these 2,100 francs are; for the loss of time I may sustain hereafter.

What are you to be paid for the loss of your time daily? As they told me that in a month and a half I might return to my own country, I have asked a *Napoleon d'or* a day.

The Marchese Spinetti observed that, while he was repeating this part of the answer, the witness, addressing himself to the Queen's interpreter, had added,—I claimed it, but they did not offer it to me.

Though you have not been promised this Napoleon a-day, don't you expect to receive it? If they give it to me, I do not refuse it, (*a laugh*); but if they do not, I will never claim it.

Have they not behaved in such a way towards you that you feel confident you shall receive it? (*Cries of "No, no,"*)

Mr. Williams objected to the question, and it was withdrawn.

Besides these various expences and promises that you have spoken to, has there been no other promise made to yourself, or any other member of your family of remuneration or reward, during your absence? None.

Now you have spoken of a person of the name of Ratti. Was he not by profession an architect?—Yes; but he was connected with my family and business; and this architect was also obliged and bound, when the money was fixed for the loss I shall have sustained, to teach his profession to my son. I believe I should state, in regard of those Napoleons d'or which I have mentioned, that I have been obliged to keep another person at Milan, and another in the country, for my son cannot attend at those places, as I have said before.

I want to know, whether besides the sum he is to receive, Ratti has undertaken to in-

abstract the son of the witness?—No, he does it as a kindness to my family, because my son is a young man, and he teaches him his business.

Was Ratti to be paid any thing for this?—He must be paid in some way or other for the time he loses, because when a person loses his time he must be recompensed for it.

Has he made any promise to do it?—No, but according to the business he does he will be paid.

I ask if you have made any promise to pay Ratti?—I have made no promise, he is not a common man that requires a promise to be made.

Was he not architect to General Pino? and was he not, also, architect to her Royal Highness?—He was latterly architect to her Royal Highness, and formerly to General Pino.

Were you to receive any other benefit or advantage for coming here?—The advantage was, that they were to send me to my country; that was all. (*a laugh*)

Do you know that Ratti has been employed to take plans of the Villa d'Este, for the purpose of these proceedings?—One day we went together to take the plan of the house. There was the old house and the new one.

Was there not a plan also taken of the Villa Villani?—I don't know.

Does the witness know of any other plan, except that of the Villa d'Este, being taken by Ratti for the purpose of these proceedings? It was the plan of only a part of the Villa d'Este, not the whole.

Does the witness know of any plan of any other building being taken by Ratti, for the purposes of this business, except that part of the Villa d'Este which he has mentioned?—I don't know, I have seen none.

In that room of the grotto where the two figures Adam and Eve were placed, were there not two doors?—You came in and went out by entrances.

What was the size of that room across, how many braccia?—From here (the bar) to there—(pointing to the third bench from the bar). It might be more or less, for I never measured it.

*Examined by MR. WILLIAMS.*

How many men had you in your employ when you agreed to come to this country?—Thirty-four or thirty-five labourers, thereabouts, or rather more.

What was the name of the English gentleman to whom you alluded when you said you were talking about coming over as a witness?—I don't know his name; I can't recollect it; he was a tall man; red (florid).

Then I must remind you; was it a Mr. Henry? Yes.

When you were talking about your coming over here, was there any mention made of your expenses—about what was to be allowed you? No, nothing; I spoke to the archi-

tect of that offer I named, but not with him (Mr. Henry).

The sums you have mentioned, are they those which Ratti fixed when you spoke to him (Ratti) about the matter? Yes; because I asked him his opinion, and I told him all my difficulties, and then asked him what he thought I should ask of this Englishman; which I did, he being a man of conscience; I did not know myself what to require exactly.

Did the witness tell the English gentleman of his intention to name the sum which he had fixed? Yes; he has asked me.

Who told the witness that Vassall was to pay him? The architect, Ratti.

One other question: You have been asked about there being two doors in the room in which the statues were; was there any cornice in that room, at which any workmen were at any time employed? During the time I was in the service of her Royal Highness I have never seen it; neither did I ever send any workmen into that place.

The Solicitor-General wished to ask the interpreter whether the word "pilastriata" signified the same in Italian exactly as it does in English—namely, a flat column, with a capital and a base.

The Interpreter explained that a pilaster, in Italian, signified any support of a roof or house which was not a column. If there were a heap of bricks and mortar to support the house, he should call that a pilaster; he should say it was of any shape, provided it was not that of a column.

LORD ELLENBOROUGH.—Near which of the doors was the pilaster in the grotto? Near the entrance.

Which entrance? The entrance: you go in, and you find the room with the pilaster.

Then it is not by the entrance from the garden which you mean, but by the entrance from the rest of the grotto—from the other rooms, in short?—

The Interpreter explained, that the witness pointed, by a passage on the paper, to the entrance of a room—to the pilaster, or column—and then seemed to signify a passage round the pilaster.

By LORD ELLENBOROUGH.—Is this entrance to the grotto from the garden, or from any other place?—There was no garden: the entrance was from the outside—that is, from the road.

When did witness hold this conversation with Rastelli, respecting the debt due to him by the Princess? It was in the month of June, July, or August, 1819, for in each of those months he came to my house.

Did you not say the sum due by the Princess was paid in March? There was some money still due to me when this conversation took place.

Then, do you mean to say the last payment was made in April or May? It was.

Then, when you had this conversation

with Rastelli in June, of what sum due to you by the Princess did you speak? There was a little, but we were talking of something else.

Do you mean to say that between the months of April and June another debt was contracted between you and the Princess? No.

Then, at the time this conversation with Rastelli took place, did the Princess owe you any thing? I have said before that she was still in my debt; but I had not then advanced any thing.

I wish to know when you held the conversation with Rastelli respecting the 45,500 livres due to you by the Princess? I have spoken of the time when I came to Milan in February or March, 1819, about that money.

Then am I to understand that the last payment of 45,500 francs were made to you in the same month, or very soon after, you had the conversation with Rastelli? The conversation with Rastelli was before the whole payment.

I wish to know how long before that payment? I have told you, and I now repeat again, that it was in March first; the payment was in May.

What day in March? I cannot recollect; but it was the day I came to Milan.

Was it in the beginning, the middle, or the end of March? I cannot remember exactly.

In what period of May was the last payment made to you? About the beginning, I think.

Did you, after your conversation with Rastelli, make any immediate application for payment of your debt, and how soon after? I have said that I saw him at Milan when I was there four days; when I returned home I applied at Pesaro, and got payment of her Royal Highness; after she paid me I returned to Milan.

Did you ever mention to any one at Milan this conversation with Rastelli? No; because I went away.

When did you first mention it to any one? When they asked me at my examination.

Did you or not mention it to her Royal Highness when you went to Pesaro for the money, or to any of her suite? No, I did not.

Did you, before you got your money, mention it to any body at Pesaro? No, it was not my business to tell it to any body.

By EARL DE LAWARR.—If any body was behind the pilaster, could he see into the room where the statutes were, without being seen by any body in that room?—I think not.

By EARL GROSVENOR. Have you seen any plan of the rooms since you came

into this country? I have the plan of the rooms quite in my own mind.

Was the passage to the grotto undulating or straight? Could a person go straight forward? If he goes straight forward he breaks his head. (*Lord laughter.*)

The question was again put to the witness, and he answered—It is not curved, it is straight: the walls are undulated, but the passage is straight.

By LORD DE DUNSTANVILLE. You have mentioned that Rastelli said certain witnesses were paid 40 or 50 francs each: was this for the whole time they were at Milan, or per diem? The whole, once only.

By the EARL of LAUDERDALE. I wish to know the amount of the last payment you received from her Royal Highness? Half.

The half of what? Of the 45,000 livres due to me, and the interest.

When did you receive the other half? The first half I received at the end of January or beginning of February.

What was the largest sum in general which the Princess of Wales ever owed you at one time? The sum of 40,000 livres, which, with the interest amounted to 45,000 livres.

Do you mean to say, or did you state, that her Royal Highness at once paid you 45,000 livres? When my account was inspected by the architect Ratti, I was paid some, and a balance was left.

Was there any objection then made to your account, and was the balance then kept back for that reason? No, I was entitled to receive the money, and I used to receive some every month or six weeks.

The EARL of LAUDERDALE wished the short-hand writer to refer to that part of the witness's evidence in which he said, that he had repeatedly talked with Rastelli, that Rastelli spoke to one witness, which witness went to another, and he again to a third.

The short-hand writer having read over these previous answers to the witness, the Noble Earl asked him—Do you mean to say that Rastelli told you one witness went and brought the other, and so on? or that he (Rastelli) went himself from one to the other?—He said, that when he was in my country, he went to ask for one witness; that that witness was then to ask for another, and that the other went also for a witness.

Did Rastelli tell you the witnesses brought one another to him, or that he went for them? Rastelli said to the innkeeper, "Send for such a man," and he afterwards told that man who so came to go and bring another, and that other then went to fetch more witnesses.

Were you often at the Villa d'Este?—When I was master, I was always there; but when the Princess returned, I went.

Do you recollect any painting on the ceil-

ing of any of the rooms as they stand at present? I remember her Royal Highness ordered one ceiling to be painted.

Can you state what the painting was? The ceiling was painted on small panels, and in the middle were some flowers and some small medallions; the designs were small, because the ceiling was small.

Do you recollect the bath-room at the Villa d'Este? No.

Mr. Brongham begged leave to submit that this question went to open a new case, and not that opened by the Attorney-General. He begged to be understood as not objecting to such a course, but merely reminding their Lordships, that if they entered into it, and that any thing were said which he might have occasion to answer, he should perhaps have to claim a delay of 5 or 6 weeks to bring over witnesses to meet this new case. After answering the case already brought forward, he must really ask for delay if another public prosecutor was to start up with a new case.

The EARL of LAUDERDALE contended that it was competent for any Peer to call any witness during any part of the prosecution, and ask him any question he pleased respecting the conduct of her Majesty, and any or every part of that conduct. (Hear.)

The LORD CHANCELLOR said, he thought it quite clear that the limits put upon the forms of examination to be observed by counsel did not in any degree restrict the right of any Peer to put such questions to any witness as he thought fit, at any period of this inquiry. (Hear.)

The EARL of LAUDERDALE said, that it was competent for any peer to do that, without being called a public prosecutor. (Hear.)

The EARL of DARNLEY remarked, that he was interrupted yesterday, and by the very Noble Earl who spoke last, in a material part of a course of examination, which he thought, if he had pursued it further, would operate rather favourable for the interest of one of the parties in this case—the accused. He had yielded yesterday to that interruption, and refrained from the pressing his questions to the witness. Their Lordships, on this occasion, should recollect that they had taken upon themselves the anomalous functions of judges, jurors, and legislators. (Hear.) He had always understood it to be the duty of a judge or a juror to lean to the side of mercy, and in favour of the accused. Keeping in mind this understanding, he could not refrain from taking this opportunity of remarking, that, notwithstanding what had been said by some of their Lordships of dignity and decency, of which he had heard so much, there were some to be found who appeared—instead of being impartial judges, and disposed to lean to the side of mercy—to have feelings of an

opposite character. [The Noble Earl was here interrupted by loud cries of Order.]

LORD DE DUNSTANVILLE condemned the introduction of irrelevant remarks, calculated to lead to altercation.

The EARL of DARNLEY resumed, and said that he did not mean to accuse any particular Noble Lord of partiality; but most certainly, generally speaking, he was sorry to find a disposition now and then manifested, which did not, in his judgment, appear calculated to sustain their Lordships' dignity and impartiality. For his own part, he was determined to discharge his duty fairly and impartially, with a proper disposition to lean to the side of mercy, the propriety of which he hoped others would feel as strongly as he did in the discharge of his duty, though he was astonished to find some of them did not.

LORD REDESDALE complained that the concluding assertion of the Noble Earl was as strong as that with which he had set out. (Hear.) Now he hoped that he should be found to act as impartially in the discharge of his duty as the Noble Earl. He was very sorry that any thing could have occurred at any period of the investigation, to induce the Noble Earl to make the remark which he had made; but he must say, that it applied, if at all, as well to the opposite side of the House, as to his side; indeed, more so. (Hear.)

LORD HOLLAND was as anxious as any body to see their Lordships abstain from altercation. He begged that the Learned Lord would not take their defence under his charge, for if his mode of defending the House against the charge of partiality was by imputing to his opponents unfair, unjust, and illiberal proceedings, it was the most unfortunate defence against partiality that he had ever listened to. It was wrong, he well knew, to impute improper motives to any Noble Lord; but he hoped they would not feel hurt at an observation which he was going to make—namely, that both parties were as partial as they possibly could be. Nobody could possibly doubt that any Noble Lord possessed the right of calling upon any witness who could either directly or indirectly give testimony respecting the Bill. Neither could any body doubt that to such a witness any question could be put by them, even though in its nature it were not strictly legal. But his Noble Friend (Lord Lauderdale) had been the first to take objections against evidence which was not so, and the thanks of the house were due to him for so doing. And therefore any party, or any of their Lordships, had a right to object to the putting of questions leading to a new inquiry. In point of candour and substantial justice, which was their proper guide on this occasion, if any of their Lordships thought that he could bring forward evidence calculated to elucidate any circumstance, either on behalf of or against the bill, which had not been brought forward

by Counsel, it was fitting that each circumstance should be stated to the house, and afterwards solemnly inquired into; but if a new inquiry were proposed, then their Lordships ought to pause, and to consider whether they ought not to instruct the Attorney-General to institute it, because it would be a fundamental violation of justice that the judges, after the evidence was closed, should examine fresh evidence themselves, without allowing the parties to the bill to enter into a cross-examination of it. He did not mean to dispute the right of the Noble Lord to put the question which he had asked; but he (Lord Holland) thought that he (Lord Lauderdale) ought, in candour, to have informed the house, that he had new matter to introduce, and that he ought to have asked their Lordships' leave to introduce it. He could wish his Noble Friend to withdraw the question altogether; but if he would not consent to do that, then he (Lord Holland) thought that Counsel should have a right to cross-examine upon it, and to ask for delay, if they thought delay necessary, in order to obtain grounds for cross-examination. Now, a word as to the expression "public prosecutor." He could not say that he did not feel sorrow when he heard their Lordships called public prosecutors; and that sorrow was not at all alleviated by finding that their Lordships did really stand in that situation. For, in point of form, who were the prosecutors except their Lordships? The bill had been brought into Parliament in consequence of the advice given by a secret Committee of their Lordships; and the feature which rendered it so particularly hideous as this—that those who sat upon it sat in the collective capacity of prosecutors, judges, jurors, and legislators. In that anomalous position they were then placed; and if it sounded harsh to the ears of any of their Lordships to be told so, he could only say

— *Padet hæc opprobria nobis*

*Et dici potuisse et non potuisse refelli.*

The EARL of LAUDERDALE thought that his Noble Friend had known him long enough to be convinced that he was the last man in the world to feel hurt in the smallest degree by any thing that could be said or done towards him. He was himself in the habit of using strong expressions, and therefore made allowance for those who used them. There was one thing made him indifferent to what was said of him—namely, the feeling that he was doing what was right. That feeling he had always enjoyed during the course of his life, and never more than during the present proceedings.

The EARL of DARNLEY rose to explain. —He did not mean to impute partiality to any Noble Lord in particular, but a public prosecutor there was, though he did not know who, what, or where this airy creature was. This, however, he did know, that great zeal

was displayed in favour of this unknown and invisible personage. (*Order order.*)

The LORD CHANCELLOR then asked whether the counsel on either side of the Bill had any other question to put to the witness?

Mr. Williams replied that he had, and proceeded to put the following questions through the Lord-Chancellor:—

I wish to know whether the pilasters of which you have spoken were at the side of the house at which they were at work, or on the opposite side? On the opposite side.

I wish to know whether when the witness spoke of the persons whom he employed, he meant those at Milan, or those whom he employed elsewhere? Some were in town—some here, others there.

How many had you at work at the Villa d'Este? Before her Royal Highness went on the long journey there were 35 or 40 bricklayers, besides their helpers; after the long journey, I had two or three hundred workmen under me.

The witness was then ordered to withdraw.

Mr. Brougham.—I wish to know of my Learned Friend whether we can have access to Rastelli. Is he here? Is he in this country?

The Attorney-General stretched across the bar, and gave an answer to Mr. Brougham in a very low tone of voice.

A short pause ensued, owing to the Lord-Chancellor's leaving the House. Immediately after his return,

Mr. Brougham said, My Lords, I wish Rastelli to be called.

The Attorney-General.—If my Learned Friend wishes to call Rastelli, he certainly can call him.

Mr. Brougham.—I wish to know if Rastelli is in the country, and, if in the country, where he is?

The Attorney-General said, that whether Rastelli was in the country or was not, his learned Friend must take the ordinary means to procure his attendance.

The LORD CHANCELLOR.—Mr. Attorney, is Rastelli here?

The Attorney-General.—No! He is sent to Milan.

Mr. Brougham.—I wish to know my Lords, whether, under these circumstances, after it is made known to your Lordships that this individual, whose conduct has been so strongly implicated, has been sent out to Milan—I say, my Lords, I wish to know whether I am to be obliged to go on with this Bill?

The Attorney-General said that Rastelli had been sent to Milan with dispatches, under the idea that he would not be again wanted. As soon, however, as that circumstance had come to his knowledge, supposing that Rastelli might be wanted, he had sent a courier to desire his immediate return. If



his learned friend had said that he would cross-examine him in the course of the defence, and if he had not rejected the allowance of time which had been offered him by their lordships, Rastelli might have been present at this stage of the proceedings. If his learned friend had wanted Rastelli, it was his duty to have communicated the fact to him, or to have got an order of their lordships, compelling his attendance. No hint had, however, been conveyed to him that Rastelli was wanted. Their lordships had heard the cross-examination, and he put it to them, whether, on that examination, the questions which his learned friend wished to ask could be put? At any rate, if Rastelli was his learned friend's witness, he must procure his attendance as he could.

Mr. Brougham knew nothing of the very urgent necessity for re-examining Rastelli until the examination of the two last witnesses had closed: but one thing was clear—that his learned friend or his instructors (but who those instructors were nobody knew, though every body saw that they were very active) must have seen that he had laid a foundation for contradicting the whole of Rastelli's evidence. He held it to be their duty to have kept Rastelli here until he (Mr. Brougham) had produced evidence to contradict him. But if there was any thing which they ought not to have done, it was to send Rastelli out as the agent of this—Milan commission. (*Hear, hear.*)

The Attorney General told their Lordships that one reason why Rastelli was sent out of the country was a desire to satisfy the general anxiety which prevailed at Milan among the relations of the witnesses about their safety, in consequence of the transaction at Dover. It was requisite to show that Rastelli, who had conducted them to this country, and had himself given evidence before their Lordships, could return in safety, in order to convince the people at Milan that the witnesses had incurred no danger. He had expected that Rastelli would have returned before this time. He was sorry that he had not; but it was impossible that he could have supposed that his Learned Friend would call him as a witness against the Bill, and that he would at the moment he was going to impeach his testimony, call him as his witness. (*Cries of Order, order. No, no.*) If his Learned Friends wanted Rastelli, they ought to have served him with an order of their Lordships.

Mr. Brougham would not say a word in reply. If the witnesses were allowed to depart out of the country pending the proceedings, there was an end to the security which their Lordships thought they possessed, that no perjury should be committed with impunity at their bar. Was he obliged under such circumstances to go on with this case? (*Loud cries of hear, hear.*)

LORD HOLLAND immediately rose, and moved that counsel will draw.

After counsel had withdrawn,

LORD HOLLAND rose to state, in behalf of their Lordships and the cause of justice, that the fact which had just come out at their Lordships' bar, that subornation had been practised to a considerable extent, was absolutely monstrous.—(*Loud cries of hear, hear, from both sides of the house, re-echoed for many moments.*) At the commencement of this unfortunate business a Noble Lord had risen in his place, and had suggested, very pertinently and very solemnly, that from the nature of the very extraordinary case into which they were going to enter, seeing as it did on the testimony of persons brought from distant countries—upon persons of whom the accused party was totally ignorant—of whose relations, conditions, habits, and characters, the judges, the accused, and the counsel were equally uninformed—it was possible, nay, it was probable, that perjury would be offered at their Lordships' bar. It was asked what security they could have against it, inasmuch as they could not hold over the heads of those witnesses the same responsibility that attached to those who usually gave evidence before the tribunals of this country? The Noble Earl over the way then rose, and, with great appearance of candour and moderation, said, that it was difficult for the government to assume any right, or adopt any provisions for compelling the witnesses to remain in this country.—(*Hear.*) But the Noble Earl at the same time assured their Lordships, with great earnestness, that he would leave nothing undone; that he would do every thing in his power to secure full justice to the accused, and to protect their Lordships from fraud and perjury. He (Lord Holland) had heard in the lobby of that house—he had heard in various parts of the metropolis—he had heard from various classes of people, from the highest to the lowest—much commendation bestowed upon the Noble Earl for the manliness of that declaration.—(*Hear, hear.*) What now appeared to be the case? Why, it appeared that out of those men who had been dragged to the bar of the House, and some of whom had probably been bribed—(*Loud cries of hear, hear.*)—it appeared that that very man who had given the most revolting and disgusting testimony, not only had withdrawn, but had actually been sent out of the country as soon as notice had been given that his testimony was to be impeached. (*Cheers.*) Glorious God! (exclaimed the Noble Lord), can your Lordships—I ask it in the name of common sense and common feeling—can your Lordships suppose that, after such a proceeding as this, great as is the reputation of your Lordships, great as is the character of this House, which I have always been eager to uphold by every means in my power—can you suppose that we, who

are subject to human failings and human infirmities, can stand in safety when opposed to the suspicion and the odium which such a proceeding must cast upon us? (*Loud cheers.*) What is the case, my Lords? Here is Rastelli, who was employed, by his own confession, as courier to the Milan commission—here is one of the witnesses who stated the most disgusting and unnatural fact that ever was mentioned in a court of justice—here is this man, who is one of that description, regarding whom you were told that every step should be taken that could be taken by the limited authority of this government (and there are some who wish that it were not so limited), to prevent them from being withdrawn from justice;—here is this very man, I say, upon whom suspicion now rests that he has been engaged in suborning witnesses for this prosecution, not merely escaping, but sent away by the government! (*Hear, hear.*) If your Lordships submit to be dragged through the mire in this manner—if, after having solemn promises made to you, you permit them not only to be evaded, but even to be counteracted by those who made them, then are your proceedings a mockery and a burlesque. You will taint, not merely your present proceedings, but all your future measures; you will taint this branch of the legislature, and will involve the country, already reduced to great distress from having blindly followed the counsels of these self-same men upon others points, in still greater distress, and will place its institutions in the utmost jeopardy and danger." (*Hear, hear.*) He therefore said, with his Noble Friend (Lord Carnarvon) who had made such a solemn appeal to them that morning that this matter ought to be set right, or that considering all these circumstances as forming a *prima facie* case of the existence of a conspiracy to pervert justice, they would do well to get rid of the disgust and fatigue of this infamous proceeding.—(*Hear.*)

The EARL of LIVERPOOL thought that, after the speech of the Noble Baron, he had a claim upon the indulgence of the House, and he would, therefore, ask their Lordships whether, without any explanation of the circumstances, the attack which had been just made upon him was justified by the facts of the case, or by any thing which they knew of his character? (*Hear, hear.*) He would appeal to their Lordships whether, when he gave an assurance to the house, it had not always been his practice to see it carried into effect? and he would defy any Noble Lord to show that he had at any period of his public life held out an expectation which had not been fulfilled. The attack upon himself he would thus repel; and, with regard to the rest of the case, he would now proceed to state that the Noble Baron had given a most erroneous, fallacious, and inflammatory view of it. (*Hear, hear.*) He was ready to admit that it was the duty of

those who conducted the bill to secure, as far as possible, the continuance of all the witnesses in the country, until the close of it.—He was ready to admit that the sending away of Rastelli was highly culpable in the quarter that authorized it; admitting this, he must in the first place, acquit himself of all knowledge of that transaction; and, in the next place, he must assure them it was as unknown to the Attorney and Solicitor-General as to himself. (*Hear, hear.*) He would ask their Lordships, then, if this circumstance authorized the suspicion that a conspiracy existed to pervert justice? (*Hear, hear.*) What was the case? Rastelli had been employed as a courier in bringing to England the witnesses for the Bill; and, upon the adjournment of their Lordships for three weeks, it had been thought by one of the agents for the Bill that certain services which were to be performed at Milan would be better performed by Rastelli than by any other person. He had, therefore, sent him thither, under the idea that he (Rastelli) would be back before the present moment. He (Lord Liverpool) thought that the idea was erroneous. The motive, however, he believed to be good and honourable; and he did not think that the person who had sent Rastelli abroad had done it with any intention of withdrawing him from justice. As soon as the circumstance of Rastelli's being abroad became known to the Attorney-General, he ordered a person to be sent out with orders for his return. That was the plain statement of the case. That was the unvarnished tale which he had to tell; and he left it to their Lordships to decide whether there existed any grounds for asserting that a conspiracy was on foot to defeat the ends of justice. (*Hear, hear.*)

The MARQUIS of LANSDOWN admitted the explanation of the Noble Earl to be perfectly satisfactory. This was an admission which the Noble Earl's character demanded. But, having said that, he must state, that it was one additional evil to those which they had already suffered in the course of this investigation, that it put such a man as the Noble Lord under the necessity of making such an exculpation as their Lordships had heard that morning. He begged leave to call to their recollection, that, whilst they were acquitted of the criminality which would attach to their proceedings, if they were proved to have originated with government, they were likewise bound to consider what effect they might produce on the interests of the illustrious client who was now at their bar. And if, notwithstanding the efforts and injunctions of the government, it should be found that their own agents, bad, wicked, and despicable as they were, had acted in direct opposition to them, he would ask whether it was fitting that they should visit that illustrious lady with the effects of that villany and wickedness which the persons who employed such agents were now obliged to dis-

now? He called upon their Lordships to consider the necessity of adhering to the rules which they had laid down in the course of this proceeding, and by which they determined in the outset that they should be bound. He was not now making these remarks owing to any thing which had arisen out of the late cross-examination; but, independently of that examination, he would ask them whether it was not proper to enable the House to satisfy itself upon any matter of doubt which might occur in any stage of this proceeding, that the witnesses should be forthcoming immediately? Was the rule which they had made for that purpose of no importance? Had they not found it to be of the very utmost importance? Had they not been able, in consequence of it, to recall Majocchi to their bar without any intervening delay? Had they not also been able to recall Carrington, who had been very properly recalled at the request of the Noble Lord at the head of the Admiralty? What, then, was he to believe, when he found that Rastelli, who had given so important evidence, and who ought to be confronted with the two last witnesses immediately, and before he could have any notice of what they had deposed, had not only disappeared, but had been actually sent out of the country?—(*Hear, hear.*) And then their Lordships were to hear it gravely asserted by his Majesty's Attorney-General, that the people of Milan could not be satisfied until they saw the courier Rastelli!—(*Cheers.*) That Rastelli's person must be seen by them, as if it were a certificate, before they could believe that their friends in England were alive, and giving round assertions at their Lordships' bar! When he heard that assertion made, he saw immediately that there was no adequate reason for taking that step for which the Noble Earl had, with manly candour, confessed that blame did and must attach somewhere. It was incumbent on their Lordships to do all they could to repair the error which they had committed. What effect it ought to have on their future proceedings he would leave it for their Lordships to determine.

The LORD-CHANCELLOR claimed no more credit than was due to him when he said that he knew nothing of the sending Rastelli out of the country. He confessed that it was a most ill-timed and ill-judged proceeding. But the well-known character of the person who had done it was a proof that it was not an error of intention but merely an error of judgment. If it were an error of the former kind, strong language might properly be applied to it; but if it were merely founded on mistake, he thought that the opprobrious terms which had been used did not apply to it. But it was said that great injury must be done to the illustrious accused. He allowed it. But what was the

course which it was now proposed to adopt? To call Rastelli to the bar? That course, unfortunately, could not be complied with; and he thought that considerable allowance ought to be made in favour of her Majesty, since he could not be brought there to-day. Their Lordships must therefore act upon this principle, that the examination, when gone into on a future day, would not be so beneficial to her Majesty as it would be at present; and when they recollected that circumstance, they must give her the benefit of it, in the language of the law, liberally and largely. The Noble Marquis had said, that it was their duty to repair the injury which they had done her Majesty; but he (the Lord-Chancellor) said it was beyond their power to do it. (*Hear, hear.*) Should they be doing her justice by closing the case in its present stage? No man living could lay his hand upon his heart, and say that this would be doing her justice. If, then, justice could not be so done, the proceeding ought not to be stopped; but their Lordships, when called upon to decide on the case, must make such allowances for her Majesty as he had before recommended. (*Hear, hear.*)

The EARL of CARNARVON fully agreed with the Learned Lord who had just set down, that there was nothing which they could do that would repair the injuries they had done to her Majesty in the course of this investigation. What, then, was the only remedy left them to adopt? What was the only step which they could take to do her Majesty justice? (*Hear, hear.*) It was now to put an end, once and for all, to this base and infamous proceeding. (*Loud cheers.*) How did the case now stand? Her Majesty's defence was interrupted in a manner the most unwarrantable, and the most extraordinary; and, by the admission of the Noble and Learned Lord himself, she could not be restored to the situation in which, if the witnesses were not sent away, she would have been placed. This occurrence he did not attribute to the Noble Earl, but to the agents of the government. Here he called on them to stop: had not they long enough outraged public feeling, disgusted common sense, and disgraced the country, by hearing at the Bar of the House, from day to day, that abominable ribaldry, which had been resorted to on this occasion, he knew not for what practical purpose?—(*Hear, hear.*) They ought to consider, whether they were not, by their proceedings, rendering themselves objects of execration to every Englishman, and of contempt to all the rest of Europe: How was it that the Learned Lord proposed to remedy, as well as he could, (for he admitted that no perfect remedy could be discovered,) the default of those with whom the present subject of complaint originated? There was proof that an extensive system of subornation of perjury exist-

ed, which they were prevented from probing to the bottom. Well, therefore, might the Noble and Learned Lord admit that substantial justice could not be done. With whom had this gross error originated? Certainly not with her Majesty's counsel, but with his Majesty's ministers; or, if not with them, with some department connected with the prosecution. (*Hear, hear.*) The case, if, indeed, it could be farther disgraced, or rendered more odious, was, by this last circumstance, reduced to the lowest pitch of infamy. (*Hear, hear.*) Let their Lordships consider well, that if there existed in the other House of Parliament any portion of the spirit which animated the country—if the members of that House had any concurrent feeling with the great body of their constituents—the Bill would be defeated there, should their Lordships persist in passing it on such evidence as had been adduced at their Bar. (*Hear, hear.*) If they should send it farther—if they should send it to the other House of Parliament—it would tend only to keep up that agitation by which the country had so long been distracted, and which threatened to bring into discredit, nay, to overthrow, the most glorious institutions in the world. (*Hear, hear.*) These sentiments did not occur to him on the spur of the moment, neither were they the offspring of any angry feeling; they were called forth by the temper which he observed amongst their Lordships, and by the feeling with which the public mind throughout the country was evidently actuated. If, for a long time, he had abstained from addressing the House on this subject, it was wholly occasioned by deference to their Lordships.—He would certainly take the sense of the House on the motion he was about to propose, and he implored their Lordships, for the honour of the country, for the honour of that House, for the honour of human nature, to proceed no further with a measure, which, if urged forward, must inevitably produce evils, from the baneful effects of which nothing could save them. The Noble Lord concluded by moving, "that this Bill be read a second time on this day six months."

The LORD CHANCELLOR. I rise merely to explain. I never could enter this house again, with quiet to my mind, if I admitted, as the Noble Earl asserts, that this House could not do substantial justice. I am decidedly of opinion that it can do substantial justice. Allowing liberally and largely for the circumstance that had happened, so far from being unfavourable to the individual, it may turn out, on the contrary, to be extremely favourable to her Majesty. It is impossible, therefore, to say that the House cannot do substantial justice. (*Hear, hear.*)

LORD ELLENBOROUGH understood his Noble and Learned Friend to say, that a great difficulty existed, and it would be impossible to place her Majesty precisely in the same situation as that in which she would now stand, if it were practicable to call Rastelli to their Lordships' bar: but, he added, that when their Lordships came to to consider the state of the case, they might, by making large and liberal allowances, if not entirely place her Majesty in the situation in which, under other circumstances, she would have been placed, be still enabled to do substantial justice, and to obtain that object at which they all wished to arrive.—Such being the situation in which they were placed, what was the proposal of the Noble Earl? It was one entirely contrary to all justice—fatal to her Majesty's character—wholly unsatisfactory to the country, (*hear, hear*) and in every respect opposed to that course which he thought it was their Lordships' bounden duty to pursue. (*Hear, hear*) In considering this bill, two questions naturally arose in the mind of every person. One question was, whether her Majesty was guilty or not guilty. Another question was, (and one, he apprehended, which was totally distinct), whether, on the evidence adduced at their Lordships' bar, they would pass this Bill? He conceived from what had fallen from the Noble Earl, when he introduced this measure, as well as from what had since been said, that their Lordships never would pass this bill, unless on such evidence as must carry conviction at once to the mind of every reasonable man in the country. This being the opinion he had formed, he had never indulged in the apprehension which seemed to fill the mind of the Noble Earl who had recently addressed the house. He (Lord Ellenborough) always thought that their Lordships would never pass this bill, unless on evidence so clear, so perfect, and so convincing, that it would be contrary to the honour and character of the House to decline passing it, when that evidence was laid before them. The case might, however, be extremely different. It was possible that such a defence might be made out at the bar as to induce their Lordships not to pass the bill, although it might not be such as to induce them to consider her Majesty entirely innocent. For the cause of truth and justice, therefore, he entreated their Lordships to hear the whole of the case, (*hear, hear*), and not to break into the middle of it—not to adopt a proceeding that might possibly leave on the mind of every Noble Lord a moral conviction of her Majesty's guilt.—(*hear.*)

The Earl of DARNEY was of opinion, that, before they came to any vote on the proposition which his Noble Friend had made, Her Majesty's Counsel ought to be called in, and asked whether the absence of



the witness Rastelli would be injurious to to their client's case?

Earl GREY said he never in his life entered on a question with more reluctance, or felt a greater degree of difficulty, than he experienced on the present occasion. Undoubtedly, if he had looked at the subject precisely in the same way that his Noble Friend had done, he should have expressed, with all the warmth of his Noble Friend, his indignation at the extraordinary circumstance that had occurred: for he must say, that, by the explanation of the Noble and Learned Lord at the Table, it appeared that they were now placed in a situation in which, according to the Noble and Learned Lord's own statements, substantial justice could not be done. (*Hear, hear.*) What was the statement of the Noble and Learned Lord? He stated that by abstraction of the witness at the present moment, and the impossibility of producing him now, an injury might be done to her Majesty's defence, which it was out of the power of that House easily to repair. Why then, if that was the situation of the case, if the Queen was deprived of those means of defence which, if resorted to at that moment, might be rendered effectual, and if the necessary means of defence were not fully supplied to her hereafter, he would ask, whether it did not follow as a plain and inevitable consequence that the defence was to a certain extent injured, and that substantial justice could not be done. Under these circumstances, he felt himself placed in a situation of very great difficulty; he felt all that had been stated with respect to the disadvantage of interrupting the defence before this witness was called; and he would perhaps be better satisfied if his Noble Friend did not persevere in his motion. But feeling that the House was placed in a most unlooked-for situation—feeling that there was no possible remedy for the act committed by the agents for the prosecution—if he were asked on that ground whether the proceeding ought to be continued, her Majesty being deprived of those means of defence which ought to be afforded to her, he should, however reluctantly, be obliged to assent to this proposition. Let their Lordships consider the difficulties into which they were plunged. In the first place, he would direct their attention to the contradiction of this witness's testimony. No man could say, that if he were called up immediately after what had been disclosed to their Lordships, his examination would not be materially different from what it would be at any future period, when information had been supplied to him with respect to all that had passed on this subject. Thus an irreparable injury would, in this instance, be done to the Queen. But there was more injury than this. His Noble Friend had stated, perhaps a little hastily, that subornation of perjury had been proved. He (Earl Grey) would not say that; but he

would say, that a strong statement had been made by the witness recently examined, which must show that the individual who had left this country had at least been engaged in endeavouring to suborn other witnesses. What had they heard this day at their Lordships' bar? They were told that Rastelli went to a witness and offered him a certain sum of money for his evidence: that that witness went to a second, the second to a third, and so on: to each of these witnesses a similar proposition had been made. He (Rastelli) did exactly that, (and he hoped he should not be chided for making any observation that seemed to reflect on the evidence which had been given), but he did exactly that which was likely to influence those witnesses who deposed to the story of Adam and Eve, and other circumstances of a similar nature—points which struck him at the moment as having been obtained in this improper manner. He was not charging a conspiracy on the Noble Earl opposite; but when such a suspicion was raised as had been excited by the evidence given that day—namely, that if the witness who had quitted this country were examined before any information relative to what had just occurred could be afforded to him, it would render the defence of her Majesty complete and triumphant over the worst conspiracy that ever was formed to ruin the character and destroy the honour of an individual; and if the circumstance of delay rendered it impossible, as it did according to the admission of the Noble and Learned Lord, that the examination could be pursued effectually and satisfactorily hereafter—then he must contend that, in consequence of what had happened, the House was placed in a situation in which substantial justice could not be done; and if his Noble Friend persevered in his motion, it must undoubtedly receive his (Lord Grey's) assent, more especially when he coupled the circumstance with the appearance which the evidence had assumed in the course of this proceeding. Thus far he had stated his sentiments with respect to the motion then before the House, and he would now offer a few observations on the fact itself. It was impossible to hear the fact stated, that this man was withdrawn from the possibility of immediate examination, without reprobating the measure in the strongest manner. The Noble Earl opposite had done no more than justice to himself when he condemned this proceeding, by applying to it the mild and gentle appellation of "ill judged." In speaking of it he would not use such a term. It was not only ill judged, but he would say that it was most iniquitous. (*Hear, hear.*) In such a case it was of little use to speak to the characters of those who were implicated. They could not but be aware, generally, from their professional knowledge, and their knowledge of this case, that it was proper and ex-



pedient to keep witnesses of this sort in the country, that they might be forthcoming in case any necessity should arise for examining them more minutely. But if ever there was a witness who, from the peculiar nature of his testimony in chief, as well as from the particular nature of the facts disclosed on his cross-examination, if ever there was a witness whom every person acquainted with the proceedings in courts of justice, must have seen the necessity of examining still further, Rastelli, he would say, was that witness. The Noble Earl (Liverpool) had observed, that he trusted his known character would remove from him any suspicion that he had taken a part in this proceeding. He agreed with his Noble Friend (the Earl of Carnarvon) in giving to the Noble Earl all the weight and credit which his high character deserved; and when the pledge was given to that House by the Noble Earl, in consequence of a formal statement on the subject, that every thing should be done as far as he could contribute assistance to further the ends of justice, by keeping within the country all the witnesses introduced in the course of this prosecution, the House, with that confidence in the Noble Earl's character which it deserved, gave credit to that assurance, and rested with perfect security on it. But if, having given their Lordships that solemn pledge, sanctioned by all the weight and authority of his character, the Noble Earl found himself in that extraordinary situation, that those who ought to obey his instructions, and attend to the pledge he had given to that House, and which a sense of duty should have taught him to respect—if those persons were found to have deceived both the Noble Earl and the House, what possible security could he have that the ends of justice would not be defeated; or what right had their Lordships to assume, that the commands of the Noble Earl would be observed, when they perceived that those agents who ought to act in strict obedience to what he had directed, had, in defiance of the Noble Earl's pledge, sent a witness out of the country, and rendered it impossible that his examination could be so effectual as it otherwise might have been? But in what situation was the Queen placed by this circumstance? Her Majesty's Counsel had trusted implicitly to the Noble Earl's assurance that the witness should not be suffered to depart; but the moment an important circumstance called for the re-examination of one of them, they found that the pledge was nugatory, that no one was answerable for the appearance of the witnesses, that a subordinate agent had sent away one of them, and that in consequence substantial justice could not be done to her Majesty. He must say, whatever their Lordships might do, whatever course they might be pleased to adopt, that the whole proceeding could not be too

strongly reprobated. Looking at its original introduction, taking its details into consideration, viewing all the circumstances connected with it, and marking most particularly, the circumstances of the defence of this illustrious person, he must again repeat, that it seemed to him that they were placed, by the forfeiture of the assurance which had been distinctly given to them, (he meant nothing personal to the Noble Earl opposite,) in a situation which prevented them from doing substantial justice to the accused party. If, therefore, he was driven to decide on this proposition, whether they should or should not continue this proceeding, he would say, "let it not be continued." The Noble Lord (Ellenborough) speaking of the mode in which the business was to be decided, observed, that there were two questions for their Lordships' decision—one, whether the Queen was guilty or not guilty; the other, whether the bill should be passed on the evidence that had been adduced; and he added a sentiment in which he (Earl Grey) entirely agreed with the Noble Lord, that, in a case of this nature, there ought to be clear, incontrovertible, unsuspecting, and unsuspected, evidence, to induce them to come to a decision against her Majesty. But he would state, that, on a proceeding of this peculiar description, a proceeding which the Noble Earl opposite had recommended, and to which he must adhere, with all its circumstances, it was impossible for their Lordships to separate those circumstances so as to give an opinion on two questions. They had arrived at the second reading of this bill, and on that second reading, the first question must be, simply, aye or no—on that point their aggregate opinion must be given—there was no question of an intermediate nature. He had stated thus much, viewing most painfully what had happened, and looking at the debates that had taken place, on or before that day, as nothing more than a strong and powerful illustration of all those evils which he had deprecated from the beginning—evils that had been summed up in a compendious observation, which had fallen from a Noble Lord on the cross-bench, who had stated to their Lordships "that the House were placed in a situation, in which, from their habits, they could not appear to the public to be doing justice."—(*Hear, Hear.*)

The EARL of LIVERPOOL said, if the fact really were, that, from the circumstance which had occurred, substantial justice could not be done to her Majesty, he would agree with the Noble Earl that the proceeding should be suspended altogether. But the Noble and Learned Lord on the woolsack did not state that substantial justice could not be done. He said, on the contrary, that the consequence of the event in question might possibly be beneficial to her Majesty. The

Noble and Learned Lord exemplified the position in this way, and he considered the reasoning to be correct—namely, that they were bound to give her Majesty the full and entire benefit, as far as she was concerned, of all the evidence adduced against the testimony of Rastelli. And although it might be possible that his evidence with respect to her Majesty could, if doubted, be explained, that still, under the circumstances of the case, such explanation should be entirely put out of the way. Here, therefore, her Majesty might receive a decided advantage. Nor, how could their Lordships put this great cause, which they were engaged to decide, on an issue such as this? He would assume that some improper proceedings took place at Milan; he would assume that the Milan commission had acted improperly; he would do this for argument sake, (because he knew the government had authorized no impropriety; and, while he admitted that the fact relative to Rastelli was a most serious one, he must observe, that with respect to all the other proceedings of the commission, so far from any thing improper being proved, rather the reverse was manifested); but assuming all this, and looking to the whole of Rastelli's evidence, it would be found that the case did not stand on that evidence, but that it still rested on the evidence of others—of some who had never been at Milan, or who, having been there, never had any communication with Rastelli, or any other person of that description. It was therefore possible, that such a case might be made out on this evidence as would induce their Lordships to find her Majesty guilty of the charges stated in the preamble of this bill. Then, he contended, that the argument of the Noble Earl was, in this view of the case, completely erroneous, because there was no question whether substantial justice could be done. It was quite clear that it could. Nay, the consequence of the situation in which the defence was placed, by the circumstance complained of, might be to deprive the prosecution of the advantage of a great body of evidence, to which access might have been had if this obstruction had not occurred. He would ask their Lordships this, and he put the question to them most seriously, whether, with the evidence on the part of the accusation, and the evidence on the part of the defence, as far as it had gone, and considered in all its bearings, it would be possible, consistently with what was due to the character of the Queen, to suspend the proceedings in its present stage? Would it be possible to satisfy the public mind, or to do substantial justice, if the case were now left without coming to any decision upon it? Whatever might be the final determination, whatever fate in the end might befall the bill, sure he was that the whole case ought to be heard. By hearing the whole of the evidence on both sides, and by that means only, could the House

arrive at a just and safe conclusion. He had no difficulty in saying that the House owed it to the honour of the Queen, and to the honour of the country, not to shrink from the question, whether the preamble of the Bill had or had not been established. Without anticipating any future questions that might arise, he thought it right to say that nothing could be more unfortunate, nothing in his view more ill-judged, than to smother the main point at issue, the guilt or innocence of the Queen, in questions of mere policy and expediency. By some mode or other the House ought to go to the end of the inquiry, and decide whether the preamble of the Bill had or had not been proved. Such was his deliberate opinion of what was due to justice and to the Queen. He had already said that if he thought the ends of substantial justice would be defeated, he should agree with the Noble Lord; but he wished to say one word on what had fallen from the Noble Earl who spoke last, as to the flagitious conduct of the individual who sent Rastelli to Italy. He allowed that it would have been a flagitious act if the object of it had been to withdraw the witness from justice, but he (Lord Ellenborough) was most conscientiously convinced that the gentleman who had been the occasion of it had had no such intention, but had felt convinced that the man would have returned before the House arrived at the present state of the proceeding. [Name, name.]

The EARL of LAUDERDALE arose amid some confusion. He was very anxious to state his feeling upon what had passed in the course of this discussion, and upon the situation in which the House was placed. He must, in the first place, observe, that the proposition of the Noble Earl arose out of a complete misrepresentation of what had fallen from the Noble and Learned Lord. He had never said, and he (Lord Lauderdale) never understood him to say, and could not conceive how any man could have supposed him to say, that it was impossible that substantial justice could be done to her Majesty, because Rastelli was withdrawn. The proposition was so absurd in itself, that it was impossible that the Noble and Learned Lord could have uttered it: on the contrary, he had urged that it was not improbable that the circumstances might turn advantageous to the Queen. And what was the nature of the proposition to rectify this supposed injustice? It was this—that after the whole of the evidence in favour of the Bill had been heard, and half the defence had been gone through, the House should stop short and proceed no further. Thus the remedy would, in truth, be the grossest act of injustice that had ever been suggested to any tribunal. It had been formerly urged, that even the slightest delay between the charge and the defence was an atrocious proceeding, and it came from the same individuals who now recommended that

the Queen should be permitted only to go through half the case that was to vindicate her in the eyes of the world and posterity (*Hear, hear.*) All men were bound to consider her innocent until she had failed in disproving her guilt, but here it was recommended that her Majesty should be deprived of the opportunity of doing so. But their Lordships were bound to consider not merely the interests of the Queen, but the interests of the country (*Hear, hear.*); and suppose it were asked why the proceeding was stopped, why the Queen was permitted only to be half defended, what would all the countries of Europe, or any independent man on the face of the globe, think of the answer, that this crying injustice had been done because an Italian courier had been sent to Milan? (*Cheers.*) But his Noble Friend (the Earl of Carnarvon) on the absence of this Italian courier, meant to found his charge of conspiracy; but he (Lord Lauderdale) put it to their Lordships whether there was one among them who believed that Rastelli's absence was the consequence of any deep-laid conspiracy? Was the absence of this courier any proof of its existence? or would this circumstance be assigned as a reason why a stain should continue upon the crown of England, which, if the opportunity were afforded, might perhaps still be shown to be pure and unsullied.

The Earl of MORLEY entreated the noble lord whose motion was under consideration, not to press so important a question to the vote, in the present unprepared state of the house. The report of the secret committee had stated, that certain grave accusations had been brought against her Majesty, and that it was important that they should be examined by a legislative proceeding. The view he had taken of the case was precisely in accordance with that report; and since impeachment was, in many respects, infinitely inferior, he knew of no means by which justice could be obtained so effectually as by the machinery now in operation. Without pledging himself as to the result, he had therefore given his vote for this proceeding; though he felt that the question of expediency still remained, even supposing the truth of the preamble of the bill fully established in evidence. Whatever might be the facts attending the absence of Rastelli, it was a duty which the house owed, even to posterity, to bring this inquiry to a conclusion: and whatever degree of injury the cause of the Queen might receive, upon which he did not pretend to decide, every principle of justice required that the counsel should be allowed to proceed with their defence.

[Some observation was here excited below the bar by the Earl of LAUDERDALE taking his seat by the side of the Earl of LIVERPOOL, and conferring with him for a few minutes.]

Lord ALVANLEY felt convinced that the absence of Rastelli was to be attributed

solely to an error in judgment. He wished to learn who was the individual that had sent Rastelli to Milan, and whether he was one of the Milan commissioners.

The Earl of LIVERPOOL said that it was Mr. Powell. (*Hear.*)

The EARL of CARNARVON after the confusion had in some degree subsided, said that he wished the following question to be submitted to the counsel for the Queen: whether the immediate attendance and examination of Rastelli were material to their case? He was anxious, in the first instance, to hear the opinions of the Learned Gentlemen upon this point; and he should then, perhaps, be better enabled to judge, what step ought next to be taken. Though nothing, not even the speeches of counsel, could alter his opinion that for the sake of the country, and for the sake of the house, it ought not to proceed further in this inquiry, yet he felt bound to submit with deference to the opinions expressed by Noble Lords more experienced than himself. For this reason he should not press to a division the motion he had offered; though he was convinced that public feeling had long ago had enough of the proceedings of the house upon the subject. (*Cheers.*) The first hour the public should learn that their Lordships had determined to quash this business, it would be hailed by an unanimous acclamation of joy and gratitude.

The EARL of BLESINGTON felt it necessary to make a few observations. It had been very properly asked, who was the individual who sent Rastelli to Italy; and the Noble Earl (Liverpool) had avowed, with that candour which always distinguished him, that it was Mr. Powell. He (Lord Blesington) had the honour to be acquainted with that gentleman, and he should be sorry, that because he was a Milan commissioner he should be supposed to be a party to any conspiracy against the Queen. Perhaps he (Lord Blesington) regretted as much as any man that Mr. Powell had had any thing to do with the Milan commission; and sure he was that he had not willingly subjected his conduct on the present occasion to the observation of the House.

LORD ALVANLEY repeated, that he charged nothing more against Mr. Powell than an error in judgment, though that error was deeply to be regretted.

The EARL of BLESINGTON concurred in thinking that it was highly improper, under all the circumstances, to send Rastelli to Italy; but he was satisfied that no undue motive existed in the mind of Mr. Powell.

LORD HOLLAND owed it to himself and to the Noble Earl opposite to assure the House, that at the time he made his remarks, and before the Noble Earl had spoken on the subject, he (Lord Holland) was satisfied that he was neither directly nor indirectly a party to the transaction. He founded this conviction upon the character he entertained of the

Noble Earl; for though, on many occasions, they were in political hostility, he was ready to acknowledge that on neither side of the House did he know any man less capable of doing what was dishonourable or unbecoming. (*Cheers.*) If he had thus thought before the Noble Earl had spoken, his opinion was more than ever confirmed by the manner in which he had met the question. While, however, he acquitted the Noble Earl of the slightest participation in any thing like intrigue or conspiracy, his feelings upon the subject remained entirely unaltered. After the disclaimer of the Noble Earl, and a few minutes calm reflection, he felt bound to say, that the Noble Earl, on this occasion and others, had undertaken to do more for the House than experience allowed he was enabled to perform. The Noble Earl admitted the proceeding now complained of to be culpable; but when he gave the pledge that no witnesses should leave the country, he ought to have fairly avowed that he had no power to retain them, that they might, if necessary, be subject to trials for perjury. If the Noble Earl had thus confessed that there were certain inferior persons, over whom, in this respect he had no control, the House would, probably have adopted a resolution very different from that to which it had arrived. It had, in fact, relied upon the assurance of the Noble Earl that he would do his utmost to prevent what had now really occurred. Perhaps the Noble Earl had done all that was possible in his situation: but what the House required and expected had not been performed. Without cavilling, therefore, about words—whether substantial justice could or could not be done, or whether her Majesty's defence was injured—he must say that the House was placed in a situation which prevented it from inquiring into the allegations of the preamble with any probability of arriving at satisfactory conclusion. His Noble Friend on the cross-bench (Lord Lauderdale), who met every subject with good humour, who possessed excellencies of many kinds, and from whom he (Lord Holland) never differed without regret and diffidence, had contended that it would be the greatest possible injustice to stop in the middle of her Majesty's defence. He (Lord Holland) confessed that he was made of sterner stuff on this occasion than his Noble Friend: he was ready, and had been ready from the beginning, to quash this proceeding; and if the motion to-day submitted had been persisted in, he should have given a vote consonant with that opinion. He felt bound to say that the defence had not only been interrupted, but that it was impossible that it could now be continued with the same advantages it had before possessed. In the course of the preliminary discussions it had been asserted by the Noble Earl (Liverpool), that the mode in which this great question was investigated was most beneficial to the

party accused, under the supposition that she was guilty. This seemed, at the time, a strange kind of panegyric; only intelligible, in its full extent, to those who were so prodigiously anxious for the honour of the Queen, and at the same time, that justice in mercy should be extended to her Majesty. When they said, "do not stop in the middle of the defence," they in fact meant to deprive her of one great advantage held out by the Noble Earl in the first instance. His Noble Friend (Lord Lauderdale) had declared, that he never heard of such a proposition as stopping a proceeding of this kind; but had he never yet read of a party to a suit being nonsuited for the want of evidence? (*Hear, hear.*) He (Lord Holland) was not well informed upon subjects; but he begged to ask if no instance was to be found of a trial being interrupted in a court of justice, in consequence of something improper in the conduct of one of the parties, before the jury was called upon to decide on the main question at issue? It would rather be supposed that the other side were arguing on the analogies of law in France than in England. Here, if a man were accused of murder, and it came out that he was only guilty of a crime of a different complexion, he had the benefit of his plea of not guilty to the greater offence. He had the advantage of a complex proposition, which, if it failed on one point, failed on all. Yet the Queen, in a case of this importance, and after all that the Noble Earl (Liverpool) had said in the commencement, was to be deprived of the advantage of this complex proposition. Much fault had been found, and justly found, with the conduct of the individual who had sent Rastelli to Italy; and it had drawn from the Noble Earl a declaration that that individual was free from any criminal intention. He (Lord Holland) recollected Lord Thurlow to have said that he would not take any notice of the conduct of persons in office on occasions like this; because, to make observations was to afford an opportunity of a fulsome panegyric, not only upon gentlemen immediately in place, but upon all those incidentally connected with them. This remark had been illustrated to-day, for, no sooner was the conduct of the individual who had sent Rastelli out of the country called in question, than he was immediately pronounced to be a person of most excellent qualities, who had merely committed an error in judgment. In fact, it might be said to be enough for a man to be employed by Government, or to be employed by one who was employed by Government, to invest him with all imaginary virtues. Thus, persons in office were gifted with all descriptions of good qualities: the gentleman whose conduct was now before the house was a person in office: *ergo*, he was gifted with all descriptions of good qualities. Another point connected in this discussion regarded the



Alien Bill; and, though he would not now go at length into it, it was obvious that it formed a very material consideration, and that, as had before been frequently shown, it might be exercised in a way injurious to her Majesty's defence. The Noble and Learned Lord (Eldon) had asserted, that, supposing Rastelli did not return, the Queen would have all the advantage to be derived from his absence. It ought, however, to be recollected, that Rastelli was not wanted, at the present moment, to be examined as to the testimony he had previously given, but as to the actual existence of a conspiracy against the Queen; whether connected with the Milan Commission or not, he (Lord Holland) would not decide. It might, perhaps, be supposed, that Rastelli, if he were here, would prove the existence of such a conspiracy: and did the Noble and Learned Lord mean to be understood, that if the witness were not produced, it was to be concluded that such a conspiracy really existed? That could not be meant: and yet, if the Noble and Learned Lord did not mean that, he could mean nothing. It was quite clear that, if the formation of a conspiracy against the Queen were satisfactorily made out in evidence, their Lordships would throw out the bill without hesitation. It was thus clear that the ends of substantial justice might be evaded; because Rastelli was not here to prove that which, without his testimony, would never be inferred. Then arose a question as to the situation in which the Court was placed; and how, under all the circumstances, it was possible to avoid doing injury? It was very true, that if there was nothing in the accusation against Rastelli—if he could not establish a conspiracy, or any thing like it—his absence might operate to the advantage of the accused; but if, on the other hand, Rastelli could prove that the Milan commission was connected with a conspiracy against the honour and character of her Majesty, and could bring home the charge, justice could not be done without his presence. He (Lord Holland) did not, therefore, stand up for the extension of any indulgence or mercy to the Queen, but for the Court itself; because he did not like to go on in a course which, happen what would, the judges could not lay their hands upon their hearts, and say "We are satisfied that full justice has been done." If this distressing situation were owing to the laches of the Noble Earl, he was quite sure that it only arose from an error in judgment. He would not, however, suppose that there had been the slightest neglect of duty on the part of government, and he gave ministers full credit for having done their utmost. Still, the very thing apprehended at the commencement, and against which the assurance of the Noble Earl was the security, had happened: the course of justice had been perverted, and it was much better to stop

altogether than to persevere in a road which could lead to no satisfactory termination.

LORD ERSKINE said, that though he was ready to vote with his Noble Friend who spoke last, to put an end to the whole proceeding, and though an almost irresistible reason had been this day afforded for doing so, yet, as the Noble Earl (Carnarvon) had withdrawn his motion for this purpose, he should not think it necessary yet to declare his opinion by his vote. He should now move that the question suggested be put, and that the House should then adjourn, thereby giving the counsel an opportunity for consideration.

EARL GREY observed, that, as Mr. Powell's name had been mentioned, he ought to be called to the bar to account for his conduct.

The LORD CHANCELLOR remarked that it was now half-past four, and that it might be better if Mr. Powell were required to attend to-morrow. The House, however, manifested a decided wish that Mr. Powell should be immediately examined.

*JOHN ALLEN POWELL sworn.*

*Examined by EARL GREY.*

Were you employed under the Milan commission? I was.

Are you an agent in support of the Bill? I am assisting the agents in support of the Bill.

Were you present in this court on the examination of Rastelli? I was.

Is it true that you sent him to Italy? It was I who recommended that Rastelli should be sent.

To whom did you recommend it? At the Foreign-office.

Was it at the Foreign-office, then, that you applied to have Rastelli sent on a foreign mission?—As courier.

Did you get passports for him? I did not.

Do you know who did? I do not.

But at the Foreign-office you recommended that he should be sent? I wish, if your Lordships will allow me, to give an explanation: Rastelli has been the courier who conducted a great number of witnesses to Dover; the witnesses had been maltreated by the people at Dover, and they were afterwards sent back to Dover.

Do you speak from your own knowledge? I understood so from Rastelli; I am stating the motives that induced me. I learnt that various reports were propagated in Italy of the dangers which the witnesses for the Bill ran by coming over to this country. I had heard that reports were propagated in Italy that they received great personal injury. I heard that the families of these persons were exceedingly anxious on the subject of their relations in this country. I had understood that Rastelli was acquainted with



the greater part of the families of those persons, and I considered that it would be an act of humanity to those relations and friends, that some person who had seen the whole of these witnesses in this country, and who was acquainted with their families, should go over there with letters from the witnesses, he having himself been an eye witness of their safety here. I wished that he should report to those families what their situation was, and by that means put an end to the great anxiety those families I thought, must necessarily feel for their friends.

Admitting this to have been your motive, did you not know that by sending Rastelli out of the country, it would be impossible to examine him here upon the subject of his former evidence, should any necessity arise? My Lords, Rastelli was sent away on Thursday or Friday after the adjournment of the House, and I conceived there would have been ample time afforded for his return before any such necessity could arise. My instructions to Rastelli were specific. As far as I recollect, they were, that he should return here on or before the third of October. At the time that Rastelli went, I had a firm conviction in my own mind that he would so return.

Whom did you see at the Foreign-office to whom you made this representation?—Either Mr. Planta or Lord Clanwilliam, I am not certain which, to whom, I think, I stated that Rastelli was to be sent as courier to Italy.

Did you state to the persons at the Foreign office, whoever they might be, that Rastelli had been examined as a witness upon this Bill? I do not recollect to have made such a statement.

Did you state who he was? I believe it was perfectly known who he was.

Have you had any communication to enable you to state whether it is probable that Rastelli will soon be in England? I have every reason to believe that he will, because positive directions were sent out that he should come over; every means were used to make him come.

When were your directions sent? Two or three times. The last directions were most positive, and were sent on Saturday or Sunday.

When was there any answer received to the first direction? I learnt that Rastelli had been for some days confined to his bed by a fever, having been blooded and attended by a medical person; blooded for a violent fever.

By another PEER.—Did you ever receive any directions from government not to allow any witnesses, as far as you could, to go out of the country? I don't recollect any

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specific instructions given me to that effect, but at the time I sent Rastelli I had not the least idea that he would be called upon or wanted, until, if the bill pass this House, it should have gone down to the House of Commons.

Then I am to understand, that no such instructions were given by government to you personally? I do not recollect any specific instructions. I certainly was present at the debate in this House when the Noble Earl at the head of the government stated his intention that every care that could be taken on the subject should be taken.

Knowing that, did you not consider it at least an act of disobedience to those instructions when you recommended that this person should be sent abroad? I did not consider it an act of disobedience. I did not give it the slightest consideration. I had a full expectation that the man would return: and I never would have sent him if I had not had the firmest conviction that the man would be here before the 3d of October.

By LORD ALVANLEY.—Could not the families of the persons ill-used at Dover have applied to Col. Browne for intelligence? They could, and many of them did. [Mr. Brougham here begged the Solicitor-General who was standing near the witness, not to speak to him. The Solicitor-General denied that he had said a word to Mr. Powell.] Col. Browne gave them the best assurances he could, but they were not satisfied, as the reports came from various quarters. I have received depositions of the relations of witnesses, in which they depose to having heard of serious injuries sustained by their relations here, and notwithstanding all the assurances given them by Colonel Browne to the contrary, they were not satisfied.

I wish to know whether, in the event of Rastelli's wishing to withdraw himself from justice, you have any means of compelling him to appear? Individually I have no means of compelling him to appear; but I certainly conceive, from the directions sent out, that means will be taken by the government of the country to compel him to appear, if he should refuse, when he is able to travel.

Have any other witnesses been sent out of the country? Not, to my knowledge, one.

Mr. Powell having been directed to withdraw,

LORD ERSKINE moved, that the question of the Earl of Carnarvon be put to the Counsel for her Majesty.

The LORD CHANCELLOR hoped that the House would not so suddenly call upon him to give his opinion, whether a question so material were fit or unfit in its present

shape to be put, to Counsel. It was this.—“whether the Counsel for the Queen think it convenient in the case of her Majesty, that Rastelli should be immediately called and examined?” His Lordship doubted whether this question could be put, as at present worded; at all events, it seemed to him that, if put, it ought to be followed up by requiring the Counsel for the Queen to state the grounds for their opinion. He therefore moved that the House should now adjourn.

Adjourned at a quarter before 5 o'clock.

### House of Lords,

SATURDAY, OCTOBER 14, 1890.

The LORD CHANCELLOR took his seat on the woolsack at the usual hour. As soon as prayers had been read and the list called over, the

Earl of CARNARVON rose, and alluded to the motion which he had yesterday made and afterwards agreed to suspend. He said, he would now, with permission of the House, withdraw that motion, and substitute another, to which he trusted there would be little objection. But previous to making this motion, he wished to put a question to the Noble Lord at the head of the Treasury, respecting the pledge he had given at the commencement of these proceedings, “that every thing should be done to further the ends of justice, in respect to the witnesses.” He now wished to know whether the Noble Lord had given any instructions on the subject, and to whom?

The Earl of LIVERPOOL said he had not given particular instructions to any individual on the subject, as he was not aware that it was necessary; since it was expressly understood that the witnesses were to be subject to the call of their Lordships.

The Earl of CARNARVON.—“I wish to know, from the Noble Lord, if he gave any specific instructions to any individual on the subject, or if it was understood at the Foreign Office that the witnesses should not be allowed to leave the country during these proceedings?”

The Earl of LIVERPOOL said, he had not given any specific instructions. He had no difficulty in explaining what occurred at the Foreign Office, as the passports had been obtained in the usual way.

The Earl of CARNARVON moved, that Mr. Plunkett, of the Foreign Office, be called to the Bar of this House immediately.—Ordered.

The Noble Earl then moved, that Mr. Powell be called to the Bar.

Earl GREY moved that Counsel on both sides be called in.

The learned Counsel, who had previously entered the House, withdrew, in order to enter formally, pursuant to the call of their Lordships.

Mr. POWELL sworn.

The EARL of CARNARVON.—Mr. Powell, you stated yesterday that Rastelli left town on the Thursday or Friday after the adjournment of this House; that was the 14th or 15th of September? Yes, it was. I left town on the Friday, and I believe Rastelli left the day before.

Do you know whether Rastelli was not ordered to take dispatches to Sir Charles Stuart, at Paris? I do not.

When you sent Rastelli abroad, in what time did you calculate his reaching Milan? In seven or eight days.

What time did you understand he was to remain at Milan? I sent some papers by Rastelli which I wished to have further legalized, and as I conceived them important to this cause, I ordered him to return before the 3d October with these papers.

Was Rastelli instructed by you to go anywhere except to Milan? Nowhere except to Milan: he was to go there direct.

Does Mr. Powell know whether, about the time Rastelli was sent back, any other person who had been sent over here as a witness, was sent back to Milan? I know that previous to that time a person who had been over here had been sent back. But not any person that had been examined.

Was only one person sent back? I recollect only one.

Was he one of the witnesses who landed at Dover? He was not.

Previous to Rastelli being sent away, was any other person except the one which you have mentioned, sent back, or allowed to go back to Milan or any other part of Italy? Not to my knowledge.

Subsequently to the return to Italy of that one person, has no other person that had been brought here as a witness been sent back? Not to my knowledge.

Am I to understand, that previous to Rastelli being sent back no other person had been sent away, or permitted to return to Italy, except the one you have mentioned? Not to my personal knowledge.

To the best of your knowledge or belief?

The EARL of LAUDERDALE moved, that the witness be ordered to withdraw. He said, the line of examination now pursued ought not to be permitted. This witness, Mr. Powell, being an agent in the cause, is, by the law of England, protected from giving evidence against his client.

The EARL of LIVERPOOL rose to correct a misunderstanding under which some of their Lordships appeared to labour. He conceived that any witness not examined might be sent back, and he rather wished that they should be sent away. He had understood that several had been sent home, but now he learnt that only one had been so sent.

EARL GREY wished to call the attention of their Lordships to the situation in which they now stood. One of the agents of this Bill, contrary to his general instructions, and, as he conceived, contrary to his duty, had sent away a material witness, for the purpose, as he said, of satisfying the friends of the witnesses in Italy. What their Lordships had now to consider was, whether that explanation of an act which had been universally condemned, except, perhaps, by his Noble Friend (Lord Lauderdale), and he did not know which whether he had condemned it or not—whether this explanation was satisfactory or not. His Noble Friend near him (the Earl of Carnarvon) wished to know from the witness, whether some of those persons who had been sent back would not have been able to execute the mission of Rastelli to Italy as well as himself? This was a question not only proper to be put, but one that could not be dispensed with, if the strict line of justice, and the dignity of their Lordships, were to be preserved.

LORD LAUDERDALE observed, in answer to the insinuations which had fallen from the Noble Earl, respecting his opinion of sending off Rastelli, that he had more than once expressed his abhorrence of that act as strongly as most of their Lordships. For the purpose stated by the Noble Earl, he acknowledged that the question ought to be put, but in these words—"Whether the witness knows that any one of the persons who witnessed the affair at Dover, had been sent back?"—"No, no, from several of their Lordships.)

From a Peer, whose name we did not learn.—Any other person could have carried the news as well.

The LORD CHANCELLOR said, the House could not be too cautious in putting questions to agents, especially considering, that if questions were put to the agent on one side, they might also be put to the agent on the other. The agent was in the confidence of his client, and he ought not to be asked questions which might lead to a breach of it. While he threw out this general caution to their Lordships, he did not, at the same time, consider the purpose of the question put by the Noble Earl, as irrelevant. He thought, however, it ought to be put in these terms:—"Have you, or have you not, sent other persons abroad equally qualified to carry the intelligence for which you say you sent out Rastelli?"

The EARL of ROSSLYN could not answer to the question being put in that shape. It was proposed to ask the witness whether he had sent any other persons abroad, "equally qualified," &c. If he answered he had not, what would that import? Nothing more than that he had not sent any persons abroad who, in his judgment, were equally qualified with Rastelli. Now this was allowing the witness to judge of the very fact on which the House was called upon to decide. (*hear, hear*). He had admitted the fact of having sent off Rastelli, and attempted to justify the act on certain specific grounds. The House were now examining the validity of these grounds of justification, and it would be absurd to transfer to the witness the right of passing his own judgment upon them.

The LORD CHANCELLOR observed, that in many particular cases particular mischief might arise, which, for the sake of general principles, must be submitted to. The House had no right to put questions to an agent which were not allowed to be put by the law of England.

LORD HOLLAND begged to ask the Noble and Learned Lord on the Woolsack, whom he regarded as the principal in this prosecution? It had been said that the House were the prosecutors, and if so, were they not entitled, as the principals, to examine their own agents? (*A laugh*).

The LORD CHANCELLOR—"Whatever the popular effect of the question put by the Noble Lord may be. I cannot allow myself to answer a question which the Noble Lord ought not to have put." (*Hear, hear*)

LORD DARNLEY enforced the propriety of the question proposed by his Noble Friend. It had been understood on all sides, that such persons as had been brought over to be witnesses for the prosecution, but had not been examined, should be sent back; and, if the case were so, surely any of these persons could have answered every purpose for which Rastelli was sent over. The Noble Lord was proceeding with some other observations, which, from a noise in the house, we could not collect, but they were of a nature to call for.

LORD REDFSDALE (*Cries of "order, order,"* accompanied with some indications of mirth.

LORD DARNLEY observed, warmly, that if, in the exercise of his duty, he had said anything which to the Noble and Learned Lord seemed ridiculous, it ought to be met in another way than with that species of coarse mirth in which his Lordship had indulged.

LORD REDFSDALE could not permit that to pass. It was hard that any coarse mirth on his part should be objected to, when yesterday all their Lordships had indulged in

the same sort of coarse mirth at his expense.  
—(Much laughter.)

LORD DARNLEY admitted that the Noble and Learned Lord had stated a ground of justification to which he could not well object. His Lordship, while on his legs, begged to add a few words relative to the expenses of this prosecution, for an account of which he had moved a fortnight ago.

LORD CATHCART rose to order. The Noble Earl was travelling into a matter which had no relation to the question before the House.

The EARL LIVERPOOL.—“ I beg, on that point, though certainly out of order, to mention, that a fortnight ago I gave orders for the preparation of these accounts. I am not aware whether they are yet ready. But at all events, whatever may be the value of the document hereafter, it has manifestly nothing to do with the matter the House were now considering.”

The MARQUIS of LANSDOWN.—It was beyond all question the right of the unknown prosecutor in this case to send away any witnesses who had not been examined, and it was peculiarly for these reasons, because there could be no objection to his doing so, because the act was open to no improper imputation, because it was not material to the interests of the unknown client that both the agent and counsel who were conducting the prosecution, by order of the House, ought to be asked whether any of the unexamined witnesses had been sent away.

LORD CARNARVON supported the relevancy of the question he had put. The object of it was to know the value of the explanation given by the witness of his conduct in sending off Rastelli, contrary to the general understanding of all parties, and contrary to the express orders of the House. If he could shew that not one only, but from fifty to sixty witnesses had been sent back who could have carried the information, for the conveyance of which, Rastelli was so improperly selected—persons, too, who by their own personal appearance, probably well clothed, and with pockets well lined, could have completely removed all apprehension as to the treatment of witnesses here—if he could establish that, of what value would the explanation of Mr. Powell be? Before sitting down, he wished to know if there was any Noble Lord who seriously objected to the question?

LORDS AUCKLAND and ELLENBOROUGH were decidedly of opinion that the question should be put.

Mr. Powell was re-called to the bar, and the last question put to him, repeated by Lord Carnarvon, namely—To the best of your knowledge and belief have any such persons been sent away?—I have heard that two others have gone.

At the time you resolved to send Rastelli to Italy, did you inquire as to the probabi-

lity that any of the witnesses would soon be permitted to depart? I had made no inquiry on the subject.

You have stated that you have received letters mentioning that Rastelli was ill; From whom did you receive them? From Colonel Brown.

Have you got these letters? Not upon me. Have you had any communication from Rastelli? I have not; nor have I made any to him.

To LORD LANSDOWN.—I have already said that I did not instruct Rastelli to go to any other place or places than Milan.

To LORD MORLEY.—I mentioned at the Foreign Office that Rastelli was to go to Milan, as a courier. It was previously known to Lord Clanwilliam and Mr. Plims, the Under Secretaries.

To LORD DARNLEY.—I certainly do not consider the witnesses in Cotton-garden as under my direction and control.

To a Peer, whose name we did not learn.—It was solely for quieting the minds of the families and relatives of the witnesses in Cotton-garden.

By LORD ERSKINE.—If that was your sole object, how came you to send him with papers, the legalizing of which must have caused some delay? I did not send the papers that he might legalize them; but I sent the papers to Milan that they might be legalized there. I expected they would be legalized in sufficient time to be brought back here by Rastelli before the 3d. of October. I left this to the discretion of Colonel Browne.

What were the names of the persons to whose families it had been thought necessary to send? Francini, Majochi: If I could see a list of the names, I could point out more; but my recollection does not serve me now. Rastelli was also to bring letters to persons in the neighbourhood of Milan.

Did you give instructions to Rastelli to quit Milan, and to go to the neighbouring countries where the families of the witnesses resided, and give them the assurances required? I do not recollect having given any precise instructions to him to do so.

The MARQUIS of LANSDOWN.—Then it was by means of those letters which were brought by Rastelli, that the families were to derive a knowledge of the witnesses? By these and the personal appearance of Rastelli; and I thought that Rastelli would probably be sent from Milan to the countries in the neighbourhood.

Had you any reason to expect that Rastelli would, without any instructions from you, go from Milan to the various countries where the families were, and give assurances to them by his personal appearance there? I recollect that he was to get letters to the families, and to give assurances that the witnesses were safe, and I concluded that Colonel Brown would send him to the places in which the families were, to give those assurances.



Would it be possible that Rastelli could convey to those places the letters, and by his personal appearance make those assurances, without incurring a greater delay than was permitted? As I have already stated, he left on the evening of the 14th, or the morning of the 15th. I calculated that he could get to Milan in six or or seven days. This would leave eleven days before the 3d of October. The distance he would have to go then to the families, was to Menzor, which is ten miles, and to Como, which is twenty-five miles.

LORD AUKLAND.—Can you state whether the friends of the witnesses were in a state of anxiety? I do not know.

Do you know the number of letters that were sent over? I cannot tell.

LORD ELLENBOROUGH.—Did you send any letter to Colonel Brown upon the subject of Rastelli's mission? Yes.

Have you got it? (After some hesitation) —“Yes.”

Can you produce it? I can. It contains a great deal of matter upon other subjects, but, whether it is my duty, considering the situation in which I stand, to produce it—

Can you produce that part of it which treats of the mission of Rastelli? After a short hesitation, “It is altogether a confidential communication, and I do not consider myself at liberty to produce it..

The witness was ordered to withdraw.

LORD DARLINGTON: It has been said that the witness was called by the order of the House. Now, whether he has been ordered to attend by your Lordships as Judges or as Jurymen, or as the House of Lords, I think that if he is brought to your Bar, permission should be given to Counsel on both sides to put what questions they please to him upon this subject, and that he should be obliged to produce the written communication.

EARL GREY said, an obstruction had taken place in the course of the evidence, it certainly became their Lordships to make the person who was the occasion of that obstruction, account for it.

The LORD-CHANCELLOR said, he believed it to be the practice in the Courts below never to break in upon the confidence of a person employed in a case, by asking for the production of papers containing confidential communications. It would be wholly impossible for the House to justify the course suggested. If a counsel called an agent to the bar in any stage of the proceedings, it was the duty of the court to give him credit for his exertions in the cause of his client and to consider that he was acting for the benefit of that client. A necessity might arise for withholding documents relative to the case.

LORD AUCKLAND asked, whether an Attorney obstructing justice, could not be compelled to account for his conduct, and to produce letters which might be considered explanatory of it?

EARL GREY suggested that the witness should be called back.

Mr POWELL again appeared at the bar.

EARL GREY.—“I understood you to state that you have in your possession a letter from Colonel Brown, about Rastelli's mission to Milan. Can you produce it? Not the whole of the letter, but that part of it, which relates to the mission? I consider all communications made to me by Colonel Brown as confidential. I therefore object to the production of the whole or any part of the correspondence to or from Colonel Brown.

EARL GREY.—I must call upon the House to decide upon the question, whether the witness is to be compelled to produce the letter?

Mr. Powell.—I object, in the situation in which I stand, as agent in this case, to the production of any letter to or from Colonel Browne.

I understood you yesterday to have said, that you did not expect Rastelli would be wanted as a witness again in the course of those proceedings, until the case should go down to the Commons; why then did you order him to be back on the 3d of October? I expected him to return with the papers which I wanted. It was for that purpose, and not from any idea of the necessity of his appearing in this House as a witness. The necessity of his being in readiness, if called for, did not suggest itself to me. The Counsel for the Queen having stated that Rastelli was wanted no further, it did not suggest itself to me that he would be called again.

Were you not aware that the House had come to the understanding that all the witnesses who had been examined should be kept in readiness?—and were you not aware that the First Lord of the Treasury had said that all the witnesses should be forthcoming to answer any questions their Lordships might think it necessary to put? Certainly.

Then were you not aware that Rastelli might be called again by their Lordships? I only say that it did not suggest itself to me that it would be necessary for him to be in waiting. If I had thought so, he certainly should not have gone.

Now if any other witnesses had been sent back when Rastelli was sent, could they not have communicated to the families the necessary intelligence?—I considered Rastelli the best person to be sent over, for he accompanied the witnesses to this country.

Could not other persons have satisfied the families as well as Rastelli? Yes.

But you thought him the most able to communicate with their families? Yes, I thought him the best person to satisfy the families as to the safety of their friends.

The reason of sending him was, to make such communication? My reason for sending him was, that he might take letters from each witness, and state their situation to their friends in Italy.

Can you, from your knowledge as agent in this cause, swear that any of the families of



the witnesses that have been examined here are residing at Milan? I cannot say where they live.

Do you not know that the whole of the witnesses, with the exception of Majocchi, have stated that they did not reside at Milan? I did not know.

And yet you wished Rastelli to communicate with their families? Yes, in Milan and its neighbourhood.

Witness, in answer to some further questions from the same Noble Lord, said a person might go to Milan in seven days, and return in the same. I have heard of some going in six days. It is not extraordinary to perform the distance in seven days. A courier might go to Milan and return in 14 days. I cannot say that I expected Rastelli to do it, but I thought he would travel it in six days and six nights, and return in the same period. He might do it. Suppose Rastelli left London on the 14th, he would reach Milan on the 20th, and that would leave time for him to execute his commission.

Did Colonel Brown, in his letters to you, mention the date of Rastelli's arrival at Milan? I do not recollect that he did.

On referring to that letter, would you feel any hesitation or difficulty in giving that information to the House? I could not object to it, except as I object to answering any questions, being, as I am, confidentially employed.

LORD KENYON.—Did Rastelli bring more than one set of witnesses to this country? I do not know.

What are the names of the witnesses Rastelli brought over? I cannot recollect all their names.

Can you not obtain their names? I could on inquiry.

Tell me the greatest distance any witness brought by Rastelli lived from Milan? I cannot tell.

Have you not a control over the witnesses? I do not know that I have any control over them.

LORD LIVERPOOL thought the witness might, without any difficulty, state when Rastelli arrived at Milan, if the fact could be ascertained by him.

EARL of DARNLEY. Mr Powell has stated that the witnesses are not under his control and direction. I therefore wish to know under whose control they are? I scarcely know.

Are persons admitted to see the witnesses by your order? I have given admissions to persons to see the witnesses, and I have also given directions that strangers should be excluded.

The EARL of DERBY. I understand Mr. Powell to say, that Rastelli was not under his control, I wish to know by what authority he sent him out? I conceived, if necessary, that I had a right to do it.

Did you send him out on your own responsibility, without communicating with any other agent in this cause? I do not recollect. I made no secret of it.

I do not want to know whether it was a secret or not? I want to know if you sent him of your own accord? Yes, I did.

The EARL of WINCHELSEA.—Had you any power to compel Rastelli to go to Milan if he had refused?—I certainly had no power to enforce his going, or to prevent it if he wished. I considered him at liberty to go, and that I could not stop him. I thought him under no legal restraint.

Mr. BROUGHAM.—With the permission of your Lordships, I wish to ask the witness who is his employer or agent in this cause?

Some objection was made to the question.

Mr. BROUGHAM.—“My lords, I consider it essential to the great principles of justice that this question should be put. It is, my Lords, important, essentially important, to enable us, her Majesty's Counsel, to conduct the cause. This is the first witness that has been called who can give us that important information which I now seek. It is important that we should know to whom we are opposed, that we may make that evidence which we otherwise could not do; for, if we know the power by which the machinery has been put in motion, we can identify them with their agents, by the acts and declarations of the party. When we are acquainted with the unknown, the interesting unknown, we may trace its actions and its conduct, and bring from its own mouth, if it have a mouth, who and what he is. I know nothing of this shapeless being, if shape it be called. I know nothing of it, whether it have a head or a body, or is a mere shadow—an airy being, “without a local habitation or a name.” Now I want to know from this witness, who is an avowed agent of this ideal personage, who and what this airy being is? I know nothing about this shrouded, this mysterious being—this retiring phantom—this uncertain shape—

“If shape it might be call'd, that shape had none,  
“Distinguishable in member, joint, or limb—  
“Or substance might be call'd”—

And such, your Lordships will admit,

“—— That shadow seem'd,  
“For each seem'd either——  
“—— What seem'd his head,  
“The likeness of a KINGLY CROWN had on.”

Yet under this shape, this “airy nothing”—and I know not whether it be one, or either, or neither, or both—I am to face the adverse party; I am to be met at every turn, and in every parts of the proceeding, by not being able to put a single question to this visionary personage. I am to pursue this shape—

The LORD-CHANCELLOR rose to order. He apprehended it was impossible for coun-

sel to put the proposed question, or for their Lordships to permit it to be put to a party who was not called in support of the bill, but on a question of obstruction to their Lordships' orders. It could not be asked unless the counsel against the bill wished to make Mr. Powell a witness in chief; and if so, they must examine him in chief, in the usual course.

Mr. Brougham wished to ask another question of the witness, which was, how many witnesses against the Queen had arrived previous to the 17th of August?

Mr. POWELL was recalled.

Mr. Brougham.—How many witnesses, brought over for the Bill, had left the country before the 14th of September.

The EARL of LAUDERDALE objected to the question.

Mr. Brougham.—Previous to Rastelli going to Italy, how many witnesses had returned to the North of Italy? I do not know of any. To the best of my knowledge, I believe there were none.

Will you swear, to the best of your belief, that when Rastelli was sent back, you did not know and believe that any other person had returned to the North of Italy?—To the best of my knowledge there was none. I have no recollection of any—no belief of any being sent back. If I have a list of witnesses, I may speak more positively. There were so many persons that I cannot speak positively. I cannot recollect. Some of the witnesses I have not seen.

Will you then swear that when Rastelli was sent back, no person, employed as an agent or courier to the Milan Commission, had been sent over to Italy subsequent to the Dover riot?—Some couriers have been sent over, but not under the Milan Commission, which I consider to have ceased. Mr. Cooke and I left Milan in May, 1819, but the functions of the Commission had ceased in March; I do not consider myself as now acting under the Milan Commission.

The witness, in further examination, acknowledged that other couriers had been sent. That Krons was one of those couriers. He had not sent any courier but Rastelli to give the information to the families of the witnesses. He had sent letters from all the witnesses here to Col. Browne. He had sent letters by other couriers. He had received information that the families of the witnesses were alarmed for their safety. There was one woman, of the name of Laucarti, who felt great anxiety for her husband. He could not recollect the names of any other. Col. Browne, who communicated the information, only stated the facts generally.

Did Col. Browne send any communication to you on the subject, except in writing? No.

The Solicitor-General said, the letter of Col. Browne could not be received in evidence.

The LORD CHANCELLOR objected to the whole course of examination, unless the witness had been called by the counsel and examined in chief.

Mr. Brougham, to witness.—Do you know that Rastelli never knew any of the witnesses or their families until he brought them over? How can I know that?

Do you not know that he swore that he had never seen them before? No; I do not recollect.

Have you not read the Minutes of Evidence? I have read part of them; I don't know that I have read Rastelli's evidence.

Do you not know that he said, when asked as to his knowledge of the witnesses—'Some I know, some I do not know; those I know, I only know by coming over with them? I don't recollect what Rastelli swore.

Have you not sworn that the reason why you sent Rastelli to Milan was, because he knew all the families of the witnesses?

The Solicitor-General objected to the question.

The witness was again examined, and said, I beg to observe, that the sending away Rastelli did not refer merely to the families at Milan of the persons whom he brought over here. The occurrence at Dover had occasioned alarm to the families of all the persons who had come over, or were to come over as witnesses in this cause.

Do you mean to state that he was to go both to Milan and to the country in the neighbourhood of it, and to go round, not only to the families of the persons he had brought over, but to all others who had come over or were to come over? Yes, as far as he could under the directions of Colonel Brown, and to take letters to the relatives and families of those who were here. As to the families of those who had not come over, his going could have no reference, because they were not in danger.—

I cannot tell how many witnesses were brought over from the north of Italy. After Rastelli's arrival at Dover with other witnesses, he went to Holland.

Witness continued.—I cannot tell whether he went any where else. I did not give him instructions to go any where else. I cannot tell whether he might not have gone to Milan in the interval between his going to Holland and the commencement of those proceedings. My instructions to Rastelli, when sending him away, were, as far as I recollect, that he should collect letters from all the witnesses who were here, and see the persons at Milan related to them, and assure them that they were all safe, and free from any apprehension of danger. Rastelli made no difficulty about going. He said that he would come back as soon as he could. I knew that he was an important witness and

would be an important witness before the House of Commons. should the Bill go there. I had no motive for removing him out of the way; and I again repeat, that if I had not the strongest conviction on my mind that he would be back here by the 3d of October, nothing could have induced me to have sent Rastelli out of the country.

*Examined by the ATTORNEY-GENERAL.*

I was present when the Attorney-General for the Queen said that he was done with his cross-examination of the witnesses for the prosecution. No intimation whatever has been made on the part of the counsel for her Majesty, that they intended to have Rastelli recalled. I did not expect he would be recalled. I looked upon the recalling of Majocchi as a special act of favour by the House itself. I had no intention whatever of withdrawing Rastelli out of the way, and no consideration for any individual on earth could have induced me to do such an act.

To LORD LAUDERDALE.—No courier, to my knowledge, was sent from this country in the interval between the landing of the witnesses at Dover and Rastelli's quitting this country. Mr. Powell was now ordered to withdraw.

LORD LAUDERDALE moved that the examination of Mr. Powell should be printed separately. He did not know what might be the success of the motion, but he wished to have it put on their Lordships' Journals, that one of their number, at least, though that an examination, which did not affect the case they were now judging one way or other, and which had, in his opinion, been conducted in opposition to all the known principles of law, should not be mixed up with the main proceedings.

EARL GREY thought the examination of Mr. Powell formed an essential part of the proceedings, and could not be separated from them.

LORD ERSKINE was extremely anxious to see the character of the House rise in the estimation of the country, and that they should not willingly stultify themselves. The House had been engaged the whole day in the examination of this witness, and he would not consent to have it put upon record that they had been occupied all this while to no purpose whatever. If it was a good objection to printing Mr. Powell's evidence as part of the proceedings, that it did not affect the case one way or other, then a great many of the questions put by the Noble Lord who had made the motion, ought also to be printed separately, as having no connection on earth with the case before the House.

LORD LAUDERDALE explained. The examination of Mr. Powell was a sort of new case, not opened by the Counsel at the Bar on either side, but by four Noble Lords, who, in doing so, had mimicked the violence of the Counsel at the Bar.

EARL GREY did not know whether he was one of the four Noble Lords whom the Noble Earl on the cross bench accused of mimicking the Counsel at the Bar. All he should say was, that if he could mimic the eloquence and power with which the Counsel for her Majesty had conducted their cause, he should feel proud. But he had no hopes as a mimic, and least of all of being able to mimic the mildness and forbearance with which the Noble Lord conducted himself.—*(a laugh.)*

Lords Redesdale, Donoughmore, and Carnarvon, spoke against printing the Examination of Mr. Powell separately.

The LORD CHANCELLOR was of the same opinion.

The motion was negatived without a division.

*JOSEPH PLANTA, Esq. sworn, and examined by LORD CARNARVON.*

Are you Under Secretary in Lord Castlereagh's office? I am.

Do you remember an application made to you by Mr. Powell, in September, for a passport for Rastelli? Mr. Powell came to me and said it had been determined to send Rastelli abroad as a courier, and desired me to take the official steps for that purpose. I consequently ordered the passport, it was signed by Lord Castlereagh; but signed passports are kept in the office, ready for such occasions; and the passport for Rastelli was one of those. I made no application to Lord Castlereagh upon the subject; but of my own act granted the passport, without the immediate order of Lord Castlereagh. It is the constant practice to do so. I have not received instructions from Lord Castlereagh, or any other person, respecting the granting of passports to persons who had attended as witnesses. At the time the passport was granted I knew from the newspapers, and from my general knowledge of the events of the day, that Rastelli had been examined as a witness; but I knew it from no other source. It was granted, I believe, on the 14th of September.

Do you know whether Rastelli was charged with dispatches from the Foreign Office? Certainly not from the Foreign Office.

Do you know of any passport granted for any courier for the purpose of calling back Rastelli? I know that passports were granted for other couriers; but whether they were to call Rastelli back or not, I do not know.

By the MARQUIS of LANSDOWN.—In what capacity did you consider Mr. Powell when he made application to you for the passport? As agent for the prosecution certainly.

By LORD DARLINGTON.—When Mr. Powell made application for the passport for Rastelli, did he apply for passports for any other persons? I believe he did not.

**LORD DARNLEY.**—Has Mr. Powell made any application at any other time for passports for other witnesses to go out of the country? Certainly not.

Were you acquainted with the order of the House with respect to the examined witnesses, at the time you granted the passport for Rastelli? I had no knowledge of that order, except merely what was stated in the newspapers.

**Mr. Brougham.**—Did Mr. Powell say anything else to you respecting Rastelli's going back? As far as I recollect, he said, that Rastelli being a proper person to return to satisfy the families of the witnesses, it was determined to send him. I do not recollect anything further. I did the official act.

Do you recollect whether Mr. Powell said that Rastelli had been examined? I do not. There might have been persons in my room at the time. Passports were granted to other couriers. I do not know the date of the earliest of the passports granted after that to Rastelli, nor did I know the date of that until last night upon my asking the person officially acting.

At the suggestion of Mr. Brougham, Mr. Planta was ordered to ascertain the dates of the passports granted to other couriers sent over upon the proceedings.

[The witness here withdrew, for the purpose, as we understood, of producing a return of the dates at which couriers had been despatched to the north of Italy since the departure of Rastelli.]

The **EARL of CARNARVON** then again drew their Lordships' attention to the question which he had already submitted. It did not, as he apprehended, call for any opinion of Counsel upon the evidence; but a material fact having appeared in evidence—the fact of Rastelli being gone out of the country, although it now appeared necessary for the ends of justice that he should be called back to the bar—this having appeared before their Lordships, made it incumbent on them to inquire of the Counsel whether they were prepared to proceed to other parts of the case. He should, therefore, move that Counsel be called back, and informed of the fact: after which the Queen's Counsel should be asked whether they were ready, notwithstanding such notification, to go on with their case.

The **LORD CHANCELLOR** said he had a personal duty to perform independent of his other functions, and this duty compelled him to observe that he was most decidedly averse to the proposition of the Noble Earl, and clearly of opinion that, after the fact respecting Rastelli's departure was communicated to Counsel, the subsequent part of the question ought not to be put. If Counsel themselves had stated that they could not proceed, they would then be to be asked for their reasons, on the validity of which their

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Lordships would have judicially to decide. The point in question was of the last importance; for if the question was thus put to Counsel, it might lay them under an obligation of stating reasons, which, in many cases, it was their sacred duty to withhold. But when the Counsel themselves interposed to make the application, they were supposed to have looked round their case, and to be in a situation to state their reasons for so applying to the Court. The Court could never act judicially on the opinions of Counsel; and he thought it would be to establish a dangerous precedent to adopt the Noble Earl's proposition. He should therefore move, as an amendment, that Counsel should be called in, and, after communication made to them of that fact, that they should be asked, generally, whether they were ready to proceed? (*Hear, hear.*)

The **EARL of CARNARVON** explained; we could not distinctly hear his observations, but we believe they were, in substance, that either the House or Counsel ought to come to some decision on the subject.

The **LORD CHANCELLOR** said, that the original question then was, that Counsel be called in, and asked whether, under the circumstances of Rastelli being at this moment abroad, they were prepared to proceed with the other parts of their case?

The **EARL of CARNARVON** was of opinion that the words "on the public service" ought to be introduced after the word "abroad," in order to show that Rastelli had not absconded.

After a few words from the Earl of Liverpool, which were not audible below the bar, this suggestion was put, and negatived.

A Noble Lord, whose name we could not ascertain, then moved that the communication should stand "had been sent abroad by Mr. Powell."

The **EARL of LIVERPOOL** said that, in point of fact, he had been detained here some time by illness.

**LORD HOLLAND** expressed his astonishment that the House should be engaged in a discussion as to the most proper manner of communicating to counsel that which counsel perfectly well knew already.

The **EARL of LIVERPOOL** said, it certainly might be better to give no formal information, but wait till it was seen whether counsel would make any application to the House in consequence of what they were already apprized of.

The **MARQUIS of LANSDOWN** objected to their Lordships adopting as their own, the words used by Mr. Powell, in the account which he gave of this transaction.

The **LORD CHANCELLOR** observed, that if counsel had not been, in point of fact, out of the House, there could be but little doubt that they were in possession of all the

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information which it might otherwise be necessary to communicate.

After a few words from the Earl of Harrowby, the original question was negatived, and counsel were called to the bar.

Mr. Brougham then, addressing their Lordships, hoped that he and his Learned Friends might be allowed to retire for five minutes before they made up their minds on a question of so much importance, and that required so much consideration. (*Hear, hear.*)

The LORD-CHANCELLOR said he joined cordially in the feeling manifested by their Lordships generally, that the request of the Learned Counsel ought to be complied with.

Mr. Brougham.—For about a quarter of an hour.

The LORD-CHANCELLOR.—During your own pleasure.

The counsel then retired, and remained out half an hour.

A few minutes after two o'clock, Mr. Brougham, Mr. Denman, and the other professional advisers of her Majesty, returned to their stations below the bar; his Majesty's Attorney and Solicitor-General, and their coadjutors, also made their appearance.

The usual motion, "that counsel be now called in," having been agreed to,

Mr. Brougham advanced to the bar; and, being asked by the Lord Chancellor what course he meant to pursue with respect to the further progress of the case, the Learned Gentleman said, that looking to the extraordinary circumstance in which he and his Learned Friends were placed, and considering the insurmountable difficulties by which they were surrounded, he felt it impossible to announce to their Lordships that any determination had been formed at that moment as to any future course which they might deem it their duty to pursue, more than to state that they would now again pursue a little further the same line of examination in which they had been previously engaged.

**FILIPPO POMI** sworn, examined by  
Dr. LUSHINGTON.

In what part of Italy do you usually reside?  
At the Barona.

How long have you resided there? In my own parish for 25 years; in the place where I work from day to day, 14 years.

Is the Barona the name of the parish? It is.

Have you resided in the house, at the Barona, where the Princess of Wales resided? I have lived or dwelt in that house fourteen years.

Do you remember the Princess residing in that house? Yes, I do.

What are you by trade or profession? A carpenter.

Do you know Giuseppe Rastelli? I do.

Was Giuseppe Rastelli in the Princess's service? He was a courier, or groom rather.

Do you know Louisa De Mont, who was in the Princess's service? I do.

Do you remember, in the course of the last year, Rastelli coming to the house of the Barona? I do remember it.

By whom was Rastelli accompanied? Rastelli came, together with the son of the head master.

Was De Mont there at that time? De Mont came half an hour afterwards in a carriage.

Were De Mont and Rastelli, on that occasion, together in the house? They were.

What did you see Rastelli do on that occasion? I saw them make a little drawing there—a plan.

Did Rastelli on leaving the house, offer to give you any money?

The Attorney-General objected to this question. The witness ought to be asked, what did Rastelli do?

Dr. Lushington conceived the question to be perfectly regular.

The Attorney-General.—You cannot lead.

Dr. Lushington.—I don't mean to lead the witness.

The Attorney-General.—My Lords, I apprehend that this is a leading question.

Mr. Denman.—I apprehend that it ought to be rather a leading question. Rastelli has sworn that he offered no money to procure witnesses, and we have a right to ask a direct question, for the purpose of contradicting him.

The LORD-CHANCELLOR held the question to be admissible; and, after it had been read by the short-hand writer, the witness answered, as follows:—

Rastelli asked me, whether I had not received presents from those persons who had come? and I said, No.

Did he afterwards make you any present? Yes.

To what amount? He made me a present of 40 francs, or 2 half Napoleons. (*A murmur here ran through the House.*)

The Interpreter.—Witness says, "2 half Napoleons, or 40 francs."

Did Rastelli say any thing respecting Mademoiselle De Mont, when he gave you the money?

The Attorney-General interposed.—Their Lordships could not receive evidence as to what Rastelli said to a third person.

The LORD CHANCELLOR.—The question, I apprehend, ought to go to this—not whether Rastelli offered any body, no matter whom, money—but whether he offered money to any person coming here as a witness.

Dr. Lushington.—Certainly, my Lord, that is the way in which I meant to follow it up.

Did Rastelli offer you money to induce you



to come here as a witness? He offered me on another day, not on this day. He offered me nothing on the first day?

Nothing was given to you on the first day? No, not on that day. But he told me that if I would say something against her Royal Highness, I should, when I had told the secret, receive un grande regale (a great present).

What did you say when you were offered this great present if you said something against the Princess? I said, No; I have nothing to depose against her Majesty. I have nothing to say but to speak well of her.

State, as nearly as you can, the exact words which Rastelli used when he told you that you should have a great present if you came to speak against the Princess.—He told me, Pomi, if you like, you may make yourself a man. (A laugh). I asked him, In what manner? and he replied, You, who have always lived in the house, day and night, you may have something to depose against her Royal Highness. I said, I have nothing to depose against that lady, who has always done a great deal of good.

Was Mademoiselle De Mont present on that occasion? No, she was not.

Did Rastelli, at the time he made you that offer, mention the name of Mademoiselle De Mont to you?

The Attorney-General objected to this question. A conversation about De Mont could not be received in evidence.

Mr. Denman submitted that, as a question likely to lead to important information with respect to transactions connected with this case, in which Rastelli was engaged, it ought to be received.

The Attorney-General.—The witness has sworn that De Mont was not present at the time, and therefore the question was irregular.

Mr. Denman.—The circumstance of De Mont's not being present is of no importance whatever.

LORD ERSKINE observed, that the reason for asking the question was quite obvious, and it appeared to him to be one that ought to be answered. Rastelli, it appeared, had taken an active part in this business, not only as a courier, but as an agent who procured witnesses. He was charged with having acted corruptly, and it was necessary to trace how far that corruption went. Therefore, whatsoever this man knew, that could inform their Lordships on this part of the case, ought to be given in evidence, subject always to cross-examination and contradiction hereafter.

The LORD-CHANCELLOR said, under the peculiar circumstances of the case, he thought the question must be admitted.—Something had been asked, on account of the absence of Rastelli, which, if he were present, could not be properly received; and he

could not shut out evidence of that, which, if Rastelli were at the Bar, could have been explained by himself, because it was not the fault of those who opposed the Bill that he was not forthcoming. (Hear, hear.) If the case were otherwise, the question certainly would not be regular. Let the evidence now go on.

EARL GREY also concurred in the propriety of asking the question.

The Attorney-General.—I must ask of your Lordships is this question to be put?

The LORD-CHANCELLOR.—Yes, it is.

The short-hand writer read the question: Did Rastelli, at the time he made you that offer, mention the name of Mademoiselle De Mont to you?

The Witness.—No, because—

The LORD-CHANCELLOR, seeing the Solicitor-General advance to the Bar, inquired whether he wished to make observation.

The Solicitor-General.—As the answer is such, there is no need to argue the question.

Mr. Denman.—The question was read, and the witness was going on with his answer, when he was interrupted. Let him finish the answer.

The Witness proceeded.—No, because it was a few days after that he had with me that conversation.

Dr. Lushington.—The witness does not appear to understand the question.

The Solicitor-General said he and his Learned Friends protested against putting a question of this description to the witness. It had been admitted that if Rastelli were here it could not be put, unless he was himself called and examined to the fact. He contended that such was the legal rule. The question could not be put unless Rastelli was called to the bar, and interrogated as to the fact. If Rastelli, on being so interrogated, had denied it, then it would have been competent for the other side to call witnesses to contradict him. Such was the undoubted rule of law. But it was said, that because Rastelli was absent, the counsel for the defence might go into a course of examination that otherwise could not be permitted. But why should this be allowed, when, in consequence of the unfortunate mistake with respect to Rastelli, the counsel on the other side might make a proposition to their Lordships for the postponement of the further proceedings on this Bill until the return of Rastelli? It appeared to him to be fraught with great danger, if, on account of the accidental absence of this man, her Majesty's counsel should be allowed to take a line of examination that never was before tolerated. They might ask questions, the witness knowing Rastelli to be absent, which, if he were here, would perhaps be answered in a very different manner.

Mr. Denman. — How does the witness know that Rastelli is not here?

The Solicitor-General. — He was now asked, how the witness knew that Rastelli was not present? He did not state positively that the witness did not know it; but if he were in such a situation that by possibility he might know it, that was sufficient for his purpose, because it was clear that such knowledge might cause a material alteration in the witness's evidence. When he heard Rastelli called "a corrupt and profligate witness in this case," he would say, that, so far as the evidence went, there was no proof to bear out such an assertion. He denied, on his oath, that he had participated in any transactions of such a nature; and witnesses on the other side, had come forward and sworn that he did. But he would ask, whether, in this stage of the question, any person viewing the proceedings that had taken place before their Lordships, could fairly take on himself to say, before the evidence was finished, before the case was concluded, that this man was "a corrupt and profligate witness," or that he was proved to have been implicated in any transaction that ought to prejudice his evidence in the minds of their Lordships? It was, he conceived, the duty of the counsel on the other side to make application to their Lordships, as Rastelli's evidence was material to the defence, for a postponement of the proceedings until he came back; but he thought it was wrong, during his absence, to suffer, on that account, an examination wholly inconsistent with the rules of evidence, and entirely unfit for the elucidation of truth, to be persevered in.

Mr. Denman denied that her Majesty's counsel were bound to make any application to their Lordships for a postponement of these proceedings; all they had to do was, to make such assertions as they might deem fit for her Majesty's defence, considering the peculiar circumstances in which she was now placed. And here he might be permitted to assure their Lordships, that if Rastelli had been in this country, it was the wish of her Majesty's counsel to have produced him at the bar of the House, as Majocchi had been. Under the expectation that he would appear when called, her Majesty's counsel had actually summoned the witness at the bar to follow him, before they were apprized of the fact that Rastelli had been spirited away from this country. When her Majesty's counsel were thus situated—when, without any error on their part, they were deprived of a great advantage—he called on their Lordships to support their claim to an extended examination. He, at the same time, entertained no doubt whatever, that the course her Majesty's counsel were now pursuing was accordant with the strict rule pursued in courts of justice. Rastelli said he had nothing to do with the Milan commission, except as a con-

rier; but her Majesty's counsel would prove, from his transactions, that he acted in another capacity; that he exerted himself to procure witnesses for money to swear against her Royal Highness. Rastelli expressly swore, that he offered no money to any person to appear in the present cause, a statement which her Majesty's counsel were ready to rebut. In answer to this deposition they would show that, by a reference to the name of De Mont, Rastelli did make such an offer. Therefore he thought it necessary that the mention of the name of De Mont should be proved, since it was by a reference to that person that the offer was made. He stood here upon the right which he was entitled to assume, in consequence of the extraordinary absence of Rastelli, being perfectly convinced that the witness now at their bar was prepared to contradict his evidence, to show that many of his statements were altogether false. If, however, their Lordships thought that her Majesty's counsel were not entitled to go into the matter arising from this question, he was still prepared to act with confidence on the proved agency of this man. On that point he was ready to proceed. It appeared that Rastelli was the agent, not the courier of the commission; and, for the purpose of a further contradiction of that man's testimony, he had a right to inquire as to what he had stated relative to De Mont. He had clearly a right to show that a certain representation had been made by Rastelli, when he referred to the name of De Mont, which involved a contradiction of the evidence he had given before their Lordships.

The LORD CHANCELLOR.—Let the two or three last questions be read.

They, Short-hand writer obeyed the mandate.

The Attorney General was then heard. He apprehended that the question could not be put, for the reasons so forcibly advanced by his Learned Friend, which were not met by any sufficient arguments on the part of her Majesty's counsel. He had heard it repeatedly asserted that this man, Rastelli, was acting in the nature of an agent, for the purpose of procuring witnesses to attend at their Lordships' bar; and that, therefore, what he had stated as evidence was not to be credited. Now he would assert, that agent this man never was for any such purpose. The only purpose for which he was employed appeared to be to bring witnesses to Milan, to be examined before the Milan commission; but there was no evidence that he ever procured witnesses to be examined before their Lordships. He would ask whether it was ever heard of, in a prosecution like this—in a criminal prosecution—that the conversation of an absent person was attempted to be proved, when he himself might be called and examined? It was said that no party appeared in support of the bill. Who was

the prosecuting party in every criminal prosecution? The public; but, was it ever known in any prosecution that an examination might be carried on through the medium of a third person, when the individual whose words were to be proved might himself be called. Rastelli stated, that he was employed on the Milan commission to conduct evidence to Milan, evidence that certainly might afterwards support the bill. But the question asked of him was, "Did you receive money to bring witnesses to the bar of this house? and his answer was, "No." The question now put was, not whether he gave money to bring the present witness to their Lordships' bar, but it referred to a conversation which was held with the witness, in which the name of another person was mentioned. He would contend, however, that his Learned Friend must confine his examination to the question originally put to Rastelli, namely — "whether he offered money to any person to come to that house?" to which question he had answered, "No." As to the fact of such an offer having been made to the witness, he knew that evidence relating to it might be received; but, as to Rastelli's conversation with other persons, he denied that any deposition on that point could be attended to, even if he were present, except to contradict, supposing him to have declared that he had held no such conversation. He would now call back their Lordships' recollection to what had taken place at the close of the case for the bill; he would call their recollection to the express declaration of the Queen's Attorney-General, that he should want no farther examination of the witnesses in support of the measure. He knew their Lordships had reserved to themselves, under the exigencies of the case, the right of calling back witnesses, if they thought it necessary. This, however, was not meant for the advantage of the counsel on the other side; their Lordships only asserted their right to call back witnesses for their own satisfaction. Now, however, her Majesty's counsel, after their express declaration, wished to put questions to a particular witness. They had stated no cause why they wished to bring him forward again. All that he understood was, that Rastelli was to be brought up as a witness for the defence—as the witness of the other side; not for cross-examination, but as a direct witness. But even if he were at the bar, they could not, in that case, ask him as to those declarations, because they could not summon a witness to come forward, with a view to make him contradict himself. If Rastelli were at the bar that instant, called forward by his Learned Friends on the other side, no examination of the nature now attempted, with respect to the case of De Mont's name on the occasion alluded to, could be allowed. Then, he would ask their

Lordships whether his Learned Friends were justified in placing themselves in a better situation than they would have stood in if Rastelli were present? His Learned Friend had said he wished to call this man to the bar as a witness for the defence. But if he were present, not a question that had been asked, put in the way in which they were put, would have been allowed. As their own witness, his Learned Friends would not be suffered to ask questions to make him contradict himself. He would point the attention of their Lordships to the situation in which they were now placed. He regretted, in the fullest extent, the circumstance of Rastelli's absence on this occasion—his innocent absence—occasioned by an ignorance of what was likely to occur. But, because this individual chanced to be absent, were they to depart from all the rules of evidence? If his Learned Friends conceived that Rastelli was a witness in their favour, on this inquiry, then, he contended that a delay should be prayed for by them, in order that he might be brought here as their witness. It was for their Lordships to consider whether such a delay should be granted; but if an application of that description were not acceded to, his Learned Friends ought not to be placed in a situation to which they could have no claim if the individual were present. He trusted that their Lordships would not come to a conclusion as to the character of Rastelli, until the proceedings were terminated; he hoped they would wait, with reference to that point, as he was sure they would do with respect to that which was of infinitely more importance—the truth or falsehood of the preamble of this Bill—until the whole case was proved. Whatever Rastelli had done or said, their Lordships would decide on by weighing and balancing the evidence. They would view the whole case with a judicial eye. Looking to the law of evidence, he submitted, with great deference to their Lordships, that this question could not be put. The witness had been asked whether an actual offer of money had been made to him; that question had been answered; and he would maintain that they could not afterwards go into evidence as to a conversation in which the names of other persons were mentioned.

The EARL of LIVERPOOL said, he was not competent to decide how far the question in dispute might be put if Rastelli were present. But he did not think that Rastelli, being absent for reasons with which the counsel on the other side had nothing to do, being absent from causes which, however explained, left the *laches*, in the eye of the law, on the other party, that party should not prevent the putting of this question. The only point for consideration was, whether, supposing the question could not be put if Rastelli were present, it ought, under the peculiar circumstances of the case, to be allow-

ed now? As the absence of Rastelli was not attributable to the counsel for the defence, he thought the question ought to be admitted.

LORD ERSKINE said a few words in support of the question.

The LORD-CHANCELLOR.—The witness had been asked whether any money had been offered to him, and he had given his answer to that question. It was, therefore, a matter for their Lordships' consideration whether the subsequent interrogatory was not stretching the inquiry too far. Perhaps it was not, if they considered how peculiarly circumstanced they were. With respect to the witness whose evidence was meant to be impeached, he was bound, until the moment that the witness was confuted, to consider him as honest a man as any that had been produced in the course of this proceeding. If, in the end, he was contradicted, so as to put it out of his power to clear himself, then he and their Lordships would have a right to take a different view of his character. He could not agree that the witness should be described as one who had been "spirited away." He was away, beyond a doubt; but there was no reason for saying that he was spirited away. It would be for their Lordships to decide whether, because counsel, when asked if they had any further questions to put, answered in the negative, therefore, for the reasons that had been stated at their bar, the sending away of a witness was allowable. He did not think, because a counsel stated that he had no further questions to ask, on cross-examination, that it must be taken as granted that a necessity might not arise for a further examination, in consequence of information which that Counsel might have received at a subsequent period. Circumstances might be disclosed which would induce the Counsel to call the witness back again, for the purpose of putting certain interrogatories to him, the answers to which he might have an opportunity of contradicting. As it seemed to him, the Learned Counsel for the defence meant to call Rastelli as a witness in Chief; so, to him, it certainly appeared. But he could not go the full length of saying, because it so appeared to him that it was intended to produce Rastelli as a witness in chief, that therefore it would have been incompetent to the Learned Counsel to have waved their determination, and called him as a witness, whose declarations after he was examined were to be contradicted. Undoubtedly, their Lordships were placed in a situation of great difficulty, not by any fault of their own—not by spiriting away a witness—a circumstance which would, by and by, be fully, fairly, and impartially discussed: the great difficulty they had here to contend was with this—whether, as Rastelli had been sent out of the country by some of those who were now acting in support of the Bill, they were to impose on her Majesty

the disadvantage of postponing her defence, not in consequence of her act, but of their act? If Rastelli had been here, different questions might have been put to him relative to the point spoken to by the present witness. If he had denied the alleged facts, that witness might have been called to contradict him. But his absence had altered the course of proceeding. The matter finally resolved itself into this point—If the question now put were admitted, whether it did not go to confirm the fact that Rastelli had made such applications as had been alleged, under particular circumstances—whether he had not used the name of another witness, who was actually coming to this country, at his desire—and whether, in that conversation, in which money was offered, the name of De Mont was not mentioned as a species of communication that was to induce the witness to accept of a reward. These were very important questions, and could only be put to the witness in consequence of the absence of Rastelli. In the first place he wished some of the preceding questions and answers to be read.

The short-hand writer read the principal part of the examination.

Dr. Lushington then proceeded.—I want to know, at the time the second conversation took place, when the offer of money was made, whether the name of De Mont was mentioned by Rastelli?

The Attorney-General did not think that the question now put was consistent with the questions and answers that preceded it.

The short-hand writer read a considerable portion of the examination.

The question was then put in this form:—What did Rastelli say to you, respecting the giving of evidence and receiving money? He told me, if I could say any thing against her Royal Highness, now was the time, and I should get a great present.

Upon what occasion was it that you had this conversation? We went to an inn together, and had something to drink there.

Did he on that occasion mention the name of De Mont? Yes, he did mention De Mont.

Did he mention De Mont with reference to money to be given?—

The Attorney-General objected to this as a leading question.

The LORD-CHANCELLOR.—Ask with reference to what he mentioned the name of De Mont.

With reference to what did he mention the name of De Mont? Because I asked him whether De Mont was still in her Royal Highness's service. He told me she was. It was not in the first conversation, but in the second conversation, that De Mont's name was mentioned. He said that she made a good day's work.



Mr. Brougham begged to put a question to the interpreter, whether the witness had not added to the answer which had been now translated, the words which he was about to mention. Two or three gentlemen, not within the bar, had heard the witness add, (here Mr. Brougham repeated in Italian, words to the effect) that De Mont had received a large sum.

Mr. Cohen was asked by Mr. Brougham whether he had not heard those words, and he stated that he had.

The question and answer were read by order of the house, with the addition that "she, De Mont, had got a great sum of money."

The EARL of LIVERPOOL suggested that Mr. Cohen should be sworn to the hearing of the words stated to have been added by the witness.

The Attorney-General submitted that the question ought to be again put to the witness, and the witness could then himself give the whole answer.

The LORD-CHANCELLOR directed the interpreter to tell the witness, that when he, the interpreter, held up his hand to stop the witness, the witness should understand that he was to delay the rest of his answer till the interpreter was done with translating the former part; for no human memory could carry every word of a long answer at once.

The interpreter communicated this to the witness.

The question was then repeated: with reference to what did he mention the name of De Mont? I asked him for this thing, whether De Mont was dismissed. For he told me De Mont was still in the service of her Royal Highness; and then I found out that she was here. He told me I should get a great present if I would depose any thing against her Royal Highness. I told him that I had been night and day for a long time in the house, and that I never saw any thing that could enable me to say a word against her Royal Highness: I never saw but good. He told me: "You know nothing, for it was a deceitful house—it was a bad house, and they were bad women in it, and so forth." (*A Laugh.*) I answered that was a real falsehood, for I had been day and night in the house, and I saw nothing of that sort; I saw nothing but good.

The Attorney-General objected. What had the conversation between Rastelli and the witness to do with the evidence before their Lordships?

Dr. Lushington contended that it was most material evidence. That Rastelli offered money was a fact of the greatest importance in this case, and the whole of the evidence now given went to prove that offer.

The LORD-CHANCELLOR asked if the answer now given by the witness was part of

the conversation in reference to De Mont, and suggested that the question should be put, "whether any thing more was said relating to De Mont?"

The question was put and the witness answered "No."

The LORD-CHANCELLOR said that would not do, for the witness did not appear to understand the question.

The witness was here ordered to withdraw from the bar, in order that Mr. Platts might state to the House the first date after the 18th of September when a passport was granted to a courier going to the north of Italy on this business. He said that it appeared to be on the 28th of September. The examination of Pomi was then continued:

Was it on this occasion that Rastelli used the expression of making a good day's work? Yes, it was on that occasion that he was going about making recruits. (*Some laughter.*)

State all he said about making recruits and a good day's work? I cannot express it. I must only say, that he told me that, on that day when she came there to make that drawing, she had made a good day.

Do you know a person of the name of Reganti? I do; he is a companion of Rastelli.

Where does he live? At Porto di Genese.

What trade is he? He sells salt, tobacco, brandy, and other liquors.

How far from Milan does he live? Out of Milan, the distance of two gun-shots.

Has he asked you to come and depose against the Princess?

The Solicitor-General objected to the line of examination now attempted, as Reganti had not been a witness in this case.

Dr. Lushington trusted that he should be able to justify the question by reference to the printed minutes. On p. 410, Rastelli swore that he had not gone voluntarily or of his own accord merely, before the Milan commission; the question was then put to him, "Who asked you to go before it?" and his answer was, "The first time a man of the name of Reganti asked me to go to the advocate, Vilmarcati;" adding, that Reganti was a tobaccoist at Milan. Upon this testimony the Learned Counsel submitted that he was entitled to give as direct proof of the acts of Reganti as if he had actually been a party promoting the bill. It was well known to the House that the Counsel for the Queen laboured under unexampled difficulties, the prosecutor never having yet taken shape or form. He hoped that on this account their Lordships would feel no disposition to enhance their difficulties, by preventing them from showing the acts of agents without the necessity of calling those agents to prove their agency. The evidence of Rastelli distinctly proved that Reganti was, like himself, an agent, but whether of the Milan commission or of any other person or body could



not be ascertained. The part of prosecutor here seemed rather to be sustained by a joint-stock company than by an individual, compounded of the house, the government, and the notorious commissioners of Milan; and whatever was done by subordinate agents must be treated as the acts of the principals, and might be proved accordingly. The prosecutor had appeared before the country already in two capacities at least: first, the government, who, aided by the junta at Milan, had originally got up the case; and, secondly, their Lordships, who, with some ingenuity and considerable caution, had been converted from judges into prosecutors. All that the emissaries of the Milan commission, directed by the advocate Vilmarcati, had done—all the exertions they had made in collecting and brewing testimony against her Majesty, might be given in evidence at the bar, on the part of the accused. If it were otherwise, the hardship upon her Majesty was evident; for the prosecutor would have all the benefit of screening his underlings. Mr. Powell had this very day claimed the benefit of doing so; and the Queen's counsel would be under the double disadvantage of submitting to all the testimony the agents in Italy had gathered, without being at liberty to call in question any of the acts of those agents. What had been done in the particular case? On the application of Reganti, Rastelli went to Vilmarcati, and there he was interrogated as to what he had been able to learn, and, adopting the agency of Reganti, Vilmarcati took Rastelli before the Milan commission. He humbly prayed their Lordships to consider in what condition the Queen would be placed if they refused the evidence now proposed to be given. If they rejected proof to show that individuals had gone over the whole of Italy, and indeed of Europe, committing subornation of perjury, it would convince the world that such conduct might be pursued with impunity, and the result would probably be, that other witnesses, obtained by the same shameful means, would crowd their Lordships bar. What hope of justice could there be if the House refused to inquire into all the acts of these agents, who, it was established had thus busied themselves in manufacturing a case against her Majesty?—Upon the whole, he contended that the question he had put ought to be answered, and that the line of examination ought to be pursued, that their Lordships and the country might know how the evidence had been obtained by promises and hopes of reward.

Mr. Denman begged to add a few words on the same side, reminding their Lordships, that though this was now admitted on the other side to be a criminal prosecution, yet it was also a divorce bill, and that there were certain parties on whose behalf it was solicited. It was likewise said to be a proceeding for the purpose of obtaining substantial

justice; and he begged leave, with great humility, to ask whether substantial justice could be obtained by the extensive system of subornation of perjury carried on in the north of Italy to purchase all the purchasable witnesses against her Majesty; more especially if those witnesses were to be screened who were not only paid for coming to the bar of this House, but for going before Colonel Browne, Mr. Powell, and the advocate Vilmarcati, at Milan. Reganti was at present in this country; at least he was one of the individuals who came over with Rastelli; and whether he had returned to Milan to quiet the apprehensions of his friends and connexions, he knew not; but if he were still in England, the Counsel for the Queen would certainly not put a person into the box as their witness whom they charged with the commission of crimes of the deepest dye. He could not, without surprise, be told that her Majesty was bound to make Reganti or Rastelli witnesses on her behalf, when the very object of interrogating them would be to fix them with conduct the most abominable and atrocious.

[Some person here observed that such conduct was not yet proved.]

"I do not say (continued Mr. Denman) that such conduct is yet proved against them; but I apprehend that, as an advocate, I have a right to impute it. I have a right to state that such is the case I will make out; and I have a right, in every stage of the proceeding, to assume that what I assert I shall establish in evidence. I do not know that I should be justified in saying that these persons have been spirited away, or whether I should convey my meaning in a periphrasis, or only that they have been sent away: certain it is that one of them has disappeared at the instance of one of the Milan commissioners, in defiance of a direct order of the House of Lords, in direct violation of a solemn pledge given by a peer at the head of the government, and by the assistance of an officer over whom another Noble Lord so warily presides. Unless my lips are to be sealed when I enter upon the defence of my illustrious client, I shall maintain, and I think it is but fair to give notice to all parties, that the most malignant and extensive conspiracy ever devised against the honour of a persecuted individual is the sole source and origin of the disgusting mass of corrupt evidence now upon the table of the House. It is to establish that fact I now claim, on the part of the defendant in this most criminal prosecution, that we should be allowed to prove the agency of Reganti. Unless I am to be told by the Attorney-General, that, this being a criminal prosecution, the conduct of the prosecutor is entirely out of the question, I apprehend there cannot be the slightest doubt that the mode and circumstances under which this evidence has been scraped together is most material to the

great issue before the House. On that ground we tender the evidence now resisted; and, if we are not to be excluded from the only advantage this mode of proceeding offers to the accused, we must be allowed to proceed with it. If her Majesty had been indicted or impeached, there might, perhaps, be some little question whether the acts of agents could be looked to as affecting some unknown and invisible principal; but, certainly, in a Bill of Pains and Penalties, accompanied by a clause of divorce, solicited by the Solicitor for the Treasury, and by the agents of government, it is at least open to us to inquire what means have been resorted to, to procure the testimony. Mr. Powell has stated that the Milan commission suspended its sittings in July, 1819; but we are totally in the dark as to its proceedings, with that single exception, though we have every reason to believe that long before that time it was exercising its functions with great activity. When it was known, then, that such measures were adopted in Italy, by the King of England to obtain a Bill of degradation and divorce against his Queen, it would not be surprising if all that was base and perjured should voluntarily present itself in support of such a proceeding: but when we find, in addition, as we have found, that agents have been going about in all quarters to corrupt, bribe, and inveigle, is it too much that we should be allowed to prove the acts of those agents?"

The Attorney-General began his reply by complaining that the counsel on the other side had, as usual, gone out of their way to attack individuals not before the House. They had animadverted especially upon the members of the Milan commission; but he could tell his Learned Friends, and could assure their Lordships, that, whenever the fit time should arrive for inquiring into the conduct of those gentlemen, all their acts would be completely justified; they were most anxious to have their conduct fully investigated, and it would then stand clear before the House and the public that nothing done by them at Milan, or in the progress of the commission, could reflect upon them the slightest discredit. But what had this question to do with the Milan commission? His Friends had exhausted their invectives (he begged pardon, their invectives were not exhausted, for Rastelli had again been dragged forward) upon the Milan commission; but what had it or Rastelli to do with the point, whether the acts of Reganti should be made the subject of inquiry at the bar? All they could prove against Rastelli had been proved; and now they wished to go further, and to examine as to the acts of a man named Reganti, assuming that he was an authorized agent of the Milan commissioners—

The LORD-CHANCELLOR here interposed and said, "I wish to know whether  
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any Noble Lord thinks that this question can be put. It would be quite wrong to stop the argument if any Noble Lord entertains a doubt upon the subject, but to me it seems the most extravagant proposition ever urged. (*Cheers.*) Whether the prosecutor be invisible, as one Learned Gentleman asserts, or so clearly seen that another Learned Gentleman can point him out as easily as a joint-stock company, I do not know; and whether that be language proper for the occasion is another matter. (*Hear, hear.*) But whatever the House may think, whether the prosecutor be visible or invisible—whether this proceeding be or be not of a criminal nature—I deliver it as my opinion, without the slightest hesitation, that it is impossible to admit such a question. (*Hear.*)

The EARL of LIVERPOOL desired that the question last put might be read, and it was read.

The LORD-CHANCELLOR added, that no agency on the part of Reganti had been at all established.

The EARL of LIVERPOOL, as it was very near four o'clock, moved the adjournment.

Mr. Denman said, that before the House adjourned he had an application to make. Rastelli had said that Reganti came over with him to England; and it was material to ascertain whether Reganti was still here, so as to be produced at the bar if necessary.

The Solicitor General apprehended that the Learned Gentlemen had no right to interfere with the conduct of the case in favour of the Bill, nor to dictate to the House who should or should not be witnesses. Whether Reganti would be called must be left to others to determine.

Mr. Denman denied that he wished to interfere or to dictate. What he submitted was, that as Reganti was proved to have acted as an agent under the Milan commissioners—

The Attorney-General.—That is not proved.

The Solicitor General.—All that appears in the notes respecting this man is, that he communicated a message to Rastelli, and that Rastelli, in consequence, went to the advocate Villmarcati.

The LORD CHANCELLOR.—If Reganti is in this country, it is in the discretion of those who oppose the bill to determine whether they will call him or not as their witness: they may have many weighty and justifying reasons for not doing it. It is certainly competent to the house, if it sees on the minutes the name of any man who it thinks can throw light on the subject, to determine whether it will or will not call him, and in what stage.

Mr. Denman.—It may be very material for the Counsel for the Queen to decide whether they will or will not call Reganti, and

for this purpose I wish simply to know whether he be in this country?

The LORD-CHANCELLOR.—If you do me the honour to address me, Mr. Denman, I can only say that I do not know; but whether any body else be acquainted with the fact, I cannot tell.

His Lordship added another sentence not audible below the bar, after which the House adjourned.

## House of Lords,

MONDAY, OCTOBER 16, 1820.

The LORD-CHANCELLOR took his place on the woolsack at ten o'clock, after which prayers were read, and the House called over. The attendance of several Peers was excused on account of indisposition.

A person from the office of the Clerk of the Hanaper in Ireland presented the writs returning Lord Dufferin a representative Peer for Ireland, in the room of the Earl of Roden.

Counsel were then called in. There was considerable confusion below the bar on the commencement of the proceedings, which rendered part of what passed not distinctly audible.

EARL GREY addressed the House. He said he understood that Sir J. Beresford was in attendance to give evidence respecting the service of William Carrington, and proposed that he should now be called in and examined.

The EARL of LIVERPOOL had no objection to that course being taken, if the Counsel on both sides consented.

The Attorney-General and Mr. Brougham signified their concurrence in the proposed arrangement.

**SIR JOHN POER BERESFORD sworn—  
examined by EARL GREY.**

Are you an Admiral in his Majesty's service? I am a Rear-Admiral.

Did you during the late war command the Poictiers? I did.

Do you remember a person named William Carrington serving on board the Poictiers? Yes, as a quarter-master.

Was he never otherwise employed than as a quarter-master? Never, while I commanded.

Did you, when you left the ship, leave any directions for rating him a midshipman? There was an acting captain on board, Capt. Jones. At the request of Sir William Gell, who wished to procure his discharge, I directed the Captain to rate Wm. Carrington as my clerk: but he was discharged, rated midshipman.

You know, then, that he was rated midshipman? I never knew it of myself; but I find that he was, in order to get his discharge.

In point of fact, then, he was a midshipman? He was.

It was, then, not on account of any misconduct on the part of Carrington, but on the request of Sir Wm. Gell, that he was discharged? Yes.

Did you give him a certificate? I gave him a certificate either before or after he was discharged. He was a very good man while I commanded.

Then you do not think that there was any thing irregular either in the conduct of Carrington while under your command, or in the manner of his being rated and discharged? Nobody behaved better while on board the ship; but if there was any irregularity in his discharge, which I believe there was, it is to me, and not to Captain Jones, that that irregularity is to be attributed.

By LORD MELLVILLE.—Are we to understand, in point of fact, that Carrington never was a midshipman, or rated, while you commanded the Poictiers? He never did duty as a midshipman.

Do you recollect having held any conversation with Carrington as to his being rated, and as to his being brought forward in the navy? No.

Do you recollect his complaining that he did not like the sea? I know that he wished to get his discharge. He did not complain to me.

Sir J. Beresford.—I wish your Lordships would indulge me with an opportunity of explaining the proceeding by which he got his discharge.

LORD MELVILLE.—Did he say he did not like the sea?

Sir J. Beresford.—I wish you would permit me to state the whole transaction.

Mr. Brougham.—As their Lordships only wanted the truth, there could, he supposed, be no objection to the witness making the explanation he proposed.

Sir J. Beresford.—After Sir W. Gell asked me to sanction the discharge of Carrington, I sent for him, and inquired whether he wanted to leave the service. He said that he was anxious to leave it, and that he did not like the sea.

Had you any correspondence with the Admiralty relative to Carrington's discharge? I never had any correspondence with the Admiralty upon the subject, neither was there any correspondence to my knowledge. If there had been, I could not have given him his discharge, because that would have been flying in the face of the Admiralty, which I should think very improper. Captain Jones, the acting captain, discharged Carrington at my request; and if any blame is to fall in

consequence of that act, I hope it will attach to me alone.

By the EARL of LAUDERDALE.—Was there any understanding when Carrington came on board that he should be rated a midshipman? No, he was draughted from another ship.

Was any thing said to him by you, during the time he was quarter-master, as to his being made a midshipman? No, there was not by me.

I shall not ask you what the acting captain did; but did it come to your knowledge that any engagement for his becoming a midshipman was made by the acting captain?

Mr. Brougham.—That would not be evidence.

The EARL of LAUDERDALE did not know but that Sir John Beresford might have official means of knowing any engagement into which the acting captain had entered, and, therefore, he thought he had put the question in such a way as to avoid the objection.

By the LORD CHANCELLOR.—When did Carrington leave the service? In 1811.

Had he not been a midshipman 12 months before? No; not to my knowledge.

Do you know whether he had or had not received midshipman's pay before that period? The ship's books can best tell that; but I should say "No."

The DUKE of CLARENCE, with all submission to the Noble and Learned Lord, thought that the question was improper.

The LORD CHANCELLOR.—If the question was improper, he ought not to have put it; but the answer certainly was not evidence, because it stated that the fact would be seen by the ship's books. Her books were therefore the proper evidence.

By the EARL of LAUDERDALE.—Did you not tell Carrington to go to the *Thïsbe*, and ask for papers? I do not remember that, but I got him put on the *Thïsbe*'s books in order to get his pay: he probably went.

At what time did he go to the *Thïsbe*? He was discharged from the *Poictiers* into the *Thïsbe*, in order to get his pay, I think either in June or July, 1811. I was on shore at the time.

Did you never give him reason to expect promotion while he was quarter-master? I do not recollect that I did.

Did Carrington ever state to you any difficulty he had as to his being a midshipman, with regard to expense? No; if he had, I should have maintained him, as I did others in the service, until he could repay the expense.

Mr. Brougham observed, that it was true the witness (Carrington) had stated in p. 584, that he was a midshipman; but if their Lordships referred to p. 591, they would find his explanation of that statement. His examination was as follows:—

"Were you rated a midshipman on board the *Poictiers*? I was.

"How long? I do not rightly know how long: I suppose during the time I was there.

He was then asked—"Do you mean that you entered as a youngster to learn your duty, or did you go upon the quarter-deck of that ship as a positively effective midshipman? I was not a very youngster; I did not go upon the quarter-deck for some time, but I understood I was to be a midshipman.

"Are you positively sure from the time you joined the *Poictiers* you were rated midshipman? I am not certain whether I was rated at the time or not; I was rated at the time I left."

From this it will be seen that Carrington had fully explained his former statement.

By the EARL of LIVERPOOL.—Did Carrington understand that he was rated a midshipman before Sir John Beresford left the ship?

This question was objected to, and another was put.

Did Sir John Beresford so act towards Carrington, or Carrington towards him, as to show that Carrington had been led to understand himself to be a midshipman before Sir John left the ship?

Mr. Brougham had no objection to this question except that it was no evidence. He should be glad to know what part of Carrington's examination had any foundation for such a question. It was, if he rightly understood his Lordship, whether Carrington was ever led to understand that he was to be a midshipman. Now Carrington had stated that he did not know how long he had been rated a midshipman.

The LORD CHANCELLOR.—He had in his evidence twice said he had been a midshipman; and though he had finally sworn what Mr. Brougham had stated, the whole of his evidence must be looked at together when the effect was to be considered.

By the LORD-CHANCELLOR.—Did he ever act as midshipman? He never did.

Was he ever led to believe he was to be a midshipman? He never was by me; but, in justice to Carrington, I wish to answer Lord Liverpool's question:—He never was led to expect it from me; but I was only going to give an opinion, which, perhaps, may not be evidence, and need not be taken down. (*Cries of order, order.*)

Mr. Brougham begged that the witness might not be interrupted in his answer.

EARL GREY.—As the question related to a matter of opinion, the answer would be evidence. Sir John Beresford was merely desired to say whether he understood that Carrington had been led to expect that he would be a midshipman.

Mr. Brougham said the purport of the



question was, whether Carrington had reason to understand that he was to be made a midshipman. Sir John Beresford had stated, not from him, but that he had from another. (*Cries of No, no.*) He was stating what he understood the witness was about to depose.

EARL GREY reminded their Lordships that Sir John Beresford had said that he had something to add, which, in justice to Carrington, he was desirous of stating.

The LORD CHANCELLOR apprehended that, if what Sir John Beresford says be not evidence, it could not be allowed to stand on the minutes, nor to remain on their Lordships' minds. It is not because Sir John Beresford says that what he was about to state is not evidence that we are to conclude it is not. If Sir John were on a naval court-martial, he would tell me that that was evidence which I conceived could not be received as such; and I hope I do not undervalue Sir John Beresford's judgment when I say that he may be mistaken as to what is or is not evidence here.

Sir John Beresford.—What I was about to say in answer to Lord Liverpool's question was, that I never gave Carrington reason to believe that he was to be promoted; but that the first-lieutenant's opinion of the man was so good, that I know not what he might not have held out to him during my absence. That First-Lieutenant (Althorpe) is now Captain of the ship.

The EARL of LAUDERDALE, after referring to Carrington's evidence in page 695 of the minutes, asked, if Carrington had ever said that he had no money or friends to support him, on the quarter-deck as midshipman?—

EARL GREY said that he stated himself to have made this representation to Sir W. Gell, not to Sir J. Beresford.

The EARL of LAUDERDALE said it appeared on the minutes that the statement had been made, and repeated the question.

Sir J. Beresford.—He never told me any such thing; and after I knew he was to be Sir Wm. Gell's servant, it was not likely that I should propose to him to become an officer in the service.

But did any thing of this kind pass before the application of Sir Wm. Gell?—Never to my knowledge.

Did Carrington ever act on the quarter-deck of the *Poictiers*? He never acted on the quarter-deck except as quarter-master, whose duty it is to be always on the deck conning the ship.

EARL GREY.—Do you recollect having, since Carrington left the ship, any conversation with him about his pay? I do, I think it is 4 or 5 years ago. He met me, and said, "Captain, I have not received my pay." I said I thought it very odd; and I got him his pay, at least was instrumental in getting it.

Did you write a letter by him to Somerset-

house for that purpose? I do not recollect whether I wrote or went to Somerset-house on that occasion.

Do you recollect, at any time previous to the departure of Carrington from the *Poictiers*, having had any conversation with him upon the subject of his quitting the service? I remember reproaching him rather for quitting the service. I told him that I was quite astonished at his doing so, particularly as he was so comfortable on board the ship. I was displeased at his quitting the service; and only allowed it to please Sir Wm. Gell. I did not like so good a man's quitting the service. The reason he gave me was, that he was pressed into the service, that he never liked it, and was anxious to quit it.

My question related to any time previous to his quitting the service; your answer, Sir John, rather refers to a subsequent period.—The answer he gave me, both previously and afterwards, was exactly the same.

But there passed nothing relative to his inability to support the expense of his being on the quarter-deck? Nothing that I remember.

LORD COLVILLE.—Did Sir John Beresford know whether Carrington, while doing duty on board the *Poictiers*, when under his command, knew how he was rated at that time?

Mr. Brougham humbly submitted that, for this witness to be called on to depose what he knew of what the other witness knew, was not evidence, unless he was asked as to some fact which brought Carrington's knowledge within the witness's knowledge.

LORD COLVILLE said, that he had put the question in consequence of Carrington's own defence that he believed himself to have been rated as midshipman on board the *Poictiers*, while under the command of Sir J. Beresford. He had, therefore, good reason to ask whether Carrington must not have been aware of his own rating; he thought he must have been. (*Hear, hear, from the Duke of Clarence.*) No man had a greater respect for the high legal talent of the counsel at the bar than himself, but he did hope that their Lordships would not be of the same opinion with that Learned Gentleman. The Learned counsel was not justified in saying the question was a droll one.

The LORD-CHANCELLOR said, that it was not for their Lordships to discourage any objections which might be urged by the counsel for the Queen upon legal grounds. At the same time he thought that the proper question to introduce the one which had been propounded would be—Does Sir John Beresford know whether Carrington did or did not know he (Carrington) was rated?

LORD COLVILLE assented to that question.

The LORD-CHANCELLOR, upon the suggestion of Mr. Brougham, shaped it then



in this form :—Does Sir J. Beresford know, from any fact or circumstance within his own knowledge, that Carrington did not know how he was rated? Every man and officer on board the ship knew how he was rated, to the best of my knowledge and belief.

Does the witness remember what the rating of Carrington was; As there were 690 men at the time on board the ship, it is impossible I can remember what the rating was so many years ago.

Is Sir J. Beresford certain that Carrington did not know that he was rated, quarter master? I should think he knew it, as he always did the duty of one; but I never had any conversation with him on the subject.

**LORD COMBERMERE.** Does the witness know whether Carrington messed with the midshipmen or not? He never did.

**The EARL of WINCHELSEA.** Was the pay, which you state you have obtained for Carrington, some time after his discharge, either by personal application or letter, the pay of a quarter-master or of a midshipman? I believe both; the pay of a midshipman formed part of it; but that could only be for a few days, because Carrington was discharged from the *Poictiers* into another ship, in order that he might become entitled to obtain pay as a midshipman. He could, therefore, be entitled to it for only the few days that he was on board that other ship.

**The LORD CHANCELLOR.**—According to the practice usually observed in the navy, is the pay of men rated according to their several duties on board ship?—Generally.

**The DUKE of CLARENCE.** During the continuance of Carrington on board the *Poictiers*, was he on any occasion particularly recommended to your notice by the first-lieutenant?—Not that I know of: but he was a very great favourite of our first-lieutenant, being a very good man; and the first lieutenant, I may add, was very loath to part with him.

Where was the *Poictiers* employed during the 13 months that he was on board of the ship? The first part of the service we commanded at the blockade of Brest; then at Lisbon; and afterwards in the North Seas.

Did Carrington come on board with a draught of men? or was he received on board on the ship's being first commissioned? As far as my memory serves me, [with a draught of men from the *Majestic* or *Success*.

During the continuance of the witness in the *Poictiers*, was the ship ever in the course of payment? I cannot say positively, but I think she was.

The ship's books will show the fact? Of course, your Royal Highness.

**EARL GREY.**—What was the name, Sir John, of your first lieutenant in the *Poictiers*? Lieutenant Althorp, now a captain

Do you know where he lives now? Near Carmarthen.

**The DUKE of CLARENCE** here moved that the Ships' Books of the *Poictiers* and the *Thiabe* should be produced before the House.

**The LORD-CHANCELLOR.**—They are to be easily had, I suppose?

**The DUKE of CLARENCE.**—Very easily had.

**LORD MELVILLE** was of opinion that all the required facts might be easily known, as to what was the rating of any men on board those ships, by a return from the proper officer at the Navy-office. The books themselves would be in some quantity, and of considerable volume; but the proper officer could furnish, by way of extract, every necessary information. It was for their Lordships, however, to decide whether they would have such a return, or the books of all the vessels the man might have ever served in.

The latter course it appeared to be the wish of the House to adopt, and we understood it to be agreed to.

**EARL GREY** desired to ask if Sir John Beresford knew where Capt. Jones lived: this gentleman was the acting captain of the *Poictiers* at the time Carrington was on board of her? I do not know the residence of this officer: the reason of my knowing that of the other is, that we continue to correspond.

**The LORD-CHANCELLOR** suggested that it would be well for some person, authorized by their Lordships, to make a copy of those parts of the Ships' Books which had been adverted to.

**Mr. Brougham** said he only wished to ascertain whether the proposition extended to the production of documentary as well as parole evidence; was it meant to receive documentary evidence?

**The LORD-CHANCELLOR.**—Their Lordships will decide on that point, and your objections, Mr. Brougham, shall be then heard, if you have any.

**Mr. Brougham** was anxious to know their intention.

**EARL GREY** moved that the Order of the House of the 21st of August last, relative to the attendance of witnesses, be read; which being done, his Lordship further moved that the present witness, Sir John Beresford, be discharged from farther observance of that order, should now withdraw, and be allowed to leave London.—Agreed to.

**Mr. Brougham** trusted, in reference to the examination of Pomi on Saturday, that their Lordships would allow him to state, that notwithstanding their Lordships had appeared to be of opinion that they (the Queen's Counsel) could not cross-examine him as to the bribe attempted to be given him by one Reganti, if he would submit to be the agent of Vilmarcati, one of the Milan commission, although

time seemed to object to be propounded, did not wave it altogether to a future time, inwards able to show a kind; and in case for the sake of sub-form, they would be y should be able to y and indispensable was, the real party, in this case; without ing at the peculiar Majesty stood, it did ngham) that it was impossible for them was that pure and ought to be the ob- eeding

ELLOR said the been examined in mined. Whatever ards made for per- on any point, the der, and would be

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much greater than his own. To him (Lord Calthorpe) this distinction was sufficient and satisfactory: and certainly he thought it would have been desirable, in order to have precluded all misunderstanding, to have stated the desired point much earlier. At the same time he must say, that he thought no parties in this case had so little reason to complain of that statement having been so long delayed as the Learned Counsel for her Majesty; for he thought that, if any advantage had been left on any side, as to refusing the knowledge of this particular, relative to the identity of what had been called an invisable, an impalpable, and an indefinable being; all that advantage had been with the Learned Counsel for her Majesty, who had certainly had the opportunity of taking the greatest advantages of that odium naturally attached to a secret committee, and particularly as that odium must be necessarily increased by the object of the committee having been a foreign one. This subject had been so repeatedly brought up, that he could not feel satisfied without just attempting to explain to the House what seemed to him the correct view of the case.

The EARL of LIVERPOOL certainly felt called upon for some explanation, after the candid way in which this matter had been put to him, particularly by the Noble Lord who spoke last. He must express some surprise that this subject, if there really was any difficulty about it, should not have been stated at the earliest stage of the proceeding, but should have been deferred to the present occasion. He himself had no difficulty in stating how he conceived the matter to stand; nor could he have any from the beginning. It might be difficult to make an analogy between a proceeding in their Lordships' House, considered as a legislative proceeding, and proceedings in other courts as far as regarded a question of who was or who was not the prosecutor: but about this question, in the present case, however the nature of the proceeding might have been objected to, there had been from the beginning no mystery whatever. On the 7th of June, or thereabouts, he did lay on the table of that House, by his Majesty's command, as he then stated, certain papers relative to her Majesty's conduct as the Princess of Wales. The question being how these were to be disposed of, it was then also proposed by him that they should, in the first instance, be referred to a secret committee. Many Noble Lords objected to that proceeding, and contended that the proper course would be for the executive government, or for himself, in the situation which he occupied under that executive government, to introduce a bill upon his own responsibility, founded upon the subject matter of those papers. Those papers were referred to a secret committee of that House, and they made a report upon

them, which was now upon their Lordships' table. The day after that report was brought in, he proceeded to lay upon the table, also, a bill; not a bill as of the secret committee (*hear*), but as, undoubtedly, his own bill (*hear, hear*); as a bill (so far as, legislatively considered, he could be) for which he was himself responsible. Such was the real course of the proceeding: right or wrong, which ever that proceeding might be, was there any mystery about it? The House ordered the Queen to be furnished with a copy of the Bill in question, and the Attorney-General was ordered by their Lordships, at the same time, to appear at the Bar of their House, in order to make good the charges contained in the preamble. Whatever might be contended for upon the principle of analogy in a case like this, he maintained the only and the proper course had been taken. Whether the Secret Committee had reported rightly or wrongly had nothing to do with the matter in dispute; if it had never existed at all, even that matter stood, as with respect to the present point at issue, on precisely the same grounds. The Bill might have been brought in on other principles; and in the way in which it had been produced, he repeated, there was no mystery whatever. He had already said, that with respect to what might have taken place under the Milan Commission, he had no objection that, at a proper time, the most thorough inquiry should be instituted into the subject. But he did not consider that those who formed it ought to be mixed with the present question more than they legally and necessarily were. With regard to the present Bill, he said, that it was introduced into that House by himself, in the firm belief that its preamble could be proved. Whether it would be or not would be for their Lordships hereafter to consider; it would be for them, at a future time, to determine how far the accusations contained in the preamble were justified. Whatever their Lordships' judgment might be, he was sure they would hold that there had been no mystery attempted to be kept up.

The MARQUIS of LANSDOWN said, the question which on Saturday it had been urged ought not to be asked, and was not to be answered, was now asked, and had been answered. After the explanation of the Noble Earl opposite, afforded with his usual candour, something like an answer had certainly been obtained. He agreed with the statement of that Noble Earl (Liverpool), and it had convinced him (the Marquis of Lansdown) that in this proceeding throughout they were entertaining a Bill which the House had been led to entertain at the suggestion of the Noble Earl, and of the King's Ministers; and that the Counsel at the bar appeared for the purpose of instituting such an examination as should certify to their Lordships whether the Bill ought to pass or not. So far the ex-

planation was to be admitted: but if the House was placed in the situation of having for its own convenience, and with a view to the accuracy of its own determinations, thought proper to create a party, and to place that party at the bar, it behoved them to consider in what way that proceeding, so established, affected the interests of the individual who was the client of the Counsel at their bar. When the Noble Earl opposite appeared to express some astonishment at the objection or difficulty which had been started not having been suggested before, he (the Marquis of Lansdown) must beg leave to say, that to the best of his recollection and belief it had been repeatedly stated throughout the whole business. (*Hear, hear.*) It had been stated in that House, and elsewhere, by the Counsel at the bar; it had been reverted to in that House by Noble Lords and by the Counsel at the Bar; and had, in short, been reiterated in almost every stage of the proceeding. But since the Noble Earl (Liverpool) did express so much astonishment that the objection had been so lately produced, he would tell him that, admitting the fact, there was at any rate some reason for it. The very proceedings of the House itself, on Saturday, raised this question—viz. How, and how far, this creating and placing at their bar an unknown party, for the convenience of the House, affected the interests of the other party before them? The question had not been so raised before. What, then, was the nature of the proceeding of Counsel at their bar on Saturday? To establish the fact of a conspiracy. To establish such a fact it was necessary to prove an agency. To prove an agency it was necessary to prove, in the first place, a party as a principal. It was impossible for any Counsel, who knew how the law of the case stood, to bring home a fact of agency, without showing a principal. Concurring with the explanation given by the Noble Earl, who had described the bill as his own measure introduced by himself, and to become afterwards the measure of the house at large, or not, according to the event, he rose chiefly for the purpose of expressing an opinion, which he really felt it an omission of his duty not to have stated on Saturday, after Mr. Powell's examination at the bar was concluded. Agreeing, as he had said, in the sort of opinion expressed by the Noble Earl, that only confirmed the feeling he (the Marquis of Lansdown) before entertained upon the subject which he was about to mention, and induced him, with the greatest confidence, to submit such opinion to the house—"that those letters from Colonel Browne to Mr. Powell, and from Mr. Powell to Colonel Browne—he meant their correspondence relative to the abstraction of a material witness in this case, when the evidence of that witness was required at the bar—were evidence which ought to be produced," con-

their Lordships at the time seemed to object to the question intended to be propounded, her Majesty's counsel did not wave it altogether, but reserved it to a future time, in case they should be afterwards able to show other acts of the same kind; and in case (which he trusted that, for the sake of substantial justice and legal form, they would be successful in doing) they should be able to arrive at that necessary and indispensable fact, of who the party was, the real party, who was the prosecutor in this case; without which information, looking at the peculiar situation in which her Majesty stood, it did appear to him (Mr. Brougham) that it was morally and absolutely impossible for them to pursue any step towards that pure and substantial justice which ought to be the object of every judicial proceeding.

The LORD CHANCELLOR said the witness (Pomi) had now been examined in chief, and also cross-examined. Whatever application might be afterwards made for permission to re-examine upon any point, the House must of course consider, and would be the best judges of.

LORD CALTHORPE rose to express his great regret that the Noble Earl at the head of his Majesty's government did not take an earlier opportunity of saying distinctly who was the prosecutor in the present case.—It really did appear to him, that in the question now before the House—if they made it one of state, and in which the state was the aggrieved and the complaining party—the crown, as the head of the state, and not the king individually, was in a legal and constitutional point of view, the prosecuting party. He could only account for his Noble Friend's (Lord Liverpool) not having stated at an earlier day that important fact, from the reliance of the Noble Earl upon the effect to be produced by their Lordships' experience of his own fairness and candour, which he had so conspicuously manifested throughout the whole of this business, and which had drawn from the Noble Earl's political opponents even the warmest and most liberal acknowledgement. A close attention to the Noble Earl's conduct had only the more confirmed his (Lord Calthorpe's) opinion of the necessity that existed for its being still more clearly and distinctly stated who the prosecuting party in this case was. It must be admitted on all hands that his Noble Friend had, by his own conduct at least, exemplified a distinction which he (Lord Calthorpe), for himself, confessed he thought clear and obvious, between the minister of the crown as the head of the state, and the minister of the crown individually. If he was wrong in drawing this distinction, he should be most happy to be set right by those Noble Lords around him whose acquaintance with the constitution and political law must be so

much greater than his own. To him (Lord Calthorpe) this distinction was sufficient and satisfactory: and certainly he thought it would have been desirable, in order to have precluded all misunderstanding, to have stated the desired point much earlier. At the same time he must say, that he thought no parties in this case had so little reason to complain of that statement having been so long delayed as the Learned Counsel for her Majesty; for he thought that, if any advantage had been left on any side, as to refusing the knowledge of this particular, relative to the identity of what had been called an invisible, an impalpable, and an indefinable being; all that advantage had been with the Learned Counsel for her Majesty, who had certainly had the opportunity of taking the greatest advantages of that odium naturally attached to a secret committee, and particularly as that odium must be necessarily increased by the object of the committee having been a foreign one. This subject had been so repeatedly brought up, that he could not feel satisfied without just attempting to explain to the House what seemed to him the correct view of the case.

The EARL of LIVERPOOL certainly felt called upon for some explanation, after the candid way in which this matter had been put to him, particularly by the Noble Lord who spoke last. He must express some surprise that this subject, if there really was any difficulty about it, should not have been stated at the earliest stage of the proceeding, but should have been deferred to the present occasion. He himself had no difficulty in stating how he conceived the matter to stand; nor could he have any from the beginning. It might be difficult to make an analogy between a proceeding in their Lordships' House, considered as a legislative proceeding, and proceedings in other courts as far as regarded a question of who was or who was not the prosecutor: but about this question, in the present case, however the nature of the proceeding might have been objected to, there had been from the beginning no mystery whatever. On the 7th of June, or thereabouts, he did lay on the table of that House, by his Majesty's command, as he then stated, certain papers relative to her Majesty's conduct as the Princess of Wales. The question being how these were to be disposed of, it was then also proposed by him that they should, in the first instance, be referred to a secret committee. Many Noble Lords objected to that proceeding, and contended that the proper course would be for the executive government, or for himself, in the situation which he occupied under that executive government, to introduce a bill upon his own responsibility, founded upon the subject matter of those papers. Those papers were referred to a secret committee of that House, and they made a report upon

them, which was now upon their Lordships' table. The day after that report was brought in, he proceeded to lay upon the table, also, a bill; not a bill as of the secret committee (*hear*), but as, undoubtedly, his own bill (*hear, hear*); as a bill (so far as, legislatively considered, he could be) for which he was himself responsible. Such was the real course of the proceeding: right or wrong, which ever that proceeding might be, was there any mystery about it? The House ordered the Queen to be furnished with a copy of the Bill in question, and the Attorney-General was ordered by their Lordships, at the same time, to appear at the Bar of their House, in order to make good the charges contained in the preamble. Whatever might be contended for upon the principle of analogy in a case like this, he maintained the only and the proper course had been taken. Whether the Secret Committee had reported rightly or wrongly had nothing to do with the matter in dispute; if it had never existed at all, even that matter stood, as with respect to the present point at issue, on precisely the same grounds. The Bill might have been brought in on other principles; and in the way in which it had been produced, he repeated, there was no mystery whatever. He had already said, that with respect to what might have taken place under the Milan Commission, he had no objection that, at a proper time, the most thorough inquiry should be instituted into the subject. But he did not consider that those who formed it ought to be mixed with the present question more than they legally and necessarily were. With regard to the present Bill, he said, that it was introduced into that House by himself, in the firm belief that its preamble could be proved. Whether it would be or not would be for their Lordships hereafter to consider; it would be for them, at a future time, to determine how far the accusations contained in the preamble were justified. Whatever their Lordships' judgment might be, he was sure they would hold that there had been no mystery attempted to be kept up.

The MARQUIS of LANSDOWN said, the question which on Saturday it had been urged ought not to be asked, and was not to be answered, was now asked, and had been answered. After the explanation of the Noble Earl opposite, afforded with his usual candour, something like an answer had certainly been obtained. He agreed with the statement of that Noble Earl (Liverpool), and it had convinced him (the Marquis of Lansdown) that in this proceeding throughout they were entertaining a Bill which the House had been led to entertain at the suggestion of the Noble Earl, and of the King's Ministers; and that the Counsel at the bar appeared for the purpose of instituting such an examination as should certify to their Lordships whether the Bill ought to pass or not. So far the ex-

planation was to be admitted: but if the House was placed in the situation of having for its own convenience, and with a view to the accuracy of its own determinations, thought proper to create a party, and to place that party at the bar, it behoved them to consider in what way that proceeding, so established, affected the interests of the individual who was the client of the Counsel at their bar. When the Noble Earl opposite appeared to express some astonishment at the objection or difficulty which had been started not having been suggested before, he (the Marquis of Lansdown) must beg leave to say, that to the best of his recollection and belief it had been repeatedly stated throughout the whole business. (*Hear, hear.*) It had been stated in that House, and elsewhere, by the Counsel at the bar; it had been reverted to in that House by Noble Lords and by the Counsel at the Bar; and had, in short, been reiterated in almost every stage of the proceeding. But since the Noble Earl (Liverpool) did express so much astonishment that the objection had been so lately produced, he would tell him that, admitting the fact, there was at any rate some reason for it. The very proceedings of the House itself, on Saturday, raised this question—viz. How, and how far, this creating and placing at their bar an unknown party, for the convenience of the House, affected the interests of the other party before them? The question had not been so raised before. What, then, was the nature of the proceeding of Counsel at their bar on Saturday? To establish the fact of a conspiracy. To establish such a fact it was necessary to prove an agency. To prove an agency it was necessary to prove, in the first place, a party as a principal. It was impossible for any Counsel, who knew how the law of the case stood, to bring home a fact of agency, without showing a principal. Concurring with the explanation given by the Noble Earl, who had described the bill as his own measure introduced by himself, and to become afterwards the measure of the house at large, or not, according to the event, he rose chiefly for the purpose of expressing an opinion, which he really felt it an omission of his duty not to have stated on Saturday, after Mr. Powell's examination at the bar was concluded. Agreeing, as he had said, in the sort of opinion expressed by the Noble Earl, that only confirmed the feeling he (the Marquis of Lansdown) before entertained upon the subject which he was about to mention, and induced him, with the greatest confidence, to submit such opinion to the house—"that those letters from Colonel Browne to Mr. Powell, and from Mr. Powell to Colonel Browne—he meant their correspondence relative to the abstraction of a material witness in this case, when the evidence of that witness was required at the bar—were evidence which ought to be produced," con-



aiding the state of this proceeding, as instituted by the house, for its own convenience, with a view, not to any particular purpose, but to the ascertaining of truth. That was its sole object; he supposed it to have no other object, no principal or party having any interest in the proceeding; because, in fact, no party existed as prosecutor, except that phantom, which, for the purpose of eliciting truth, their Lordships had raised up; and which, in truth, was for their own convenience, but was not for the interests of truth. It was very certain that, in many ordinary cases, the convenience of parties in proceedings were to be preferred to the interests of truth; and such a course might be perfectly prudent. But here, when they considered the unsubstantial party which they had created and brought to their bar, no such interests were to be considered; the sole and real and important interests were those of truth. He had no hesitation in affirming that it was their Lordships' duty to take care, lest, in advocating the interests of their own party, raised up by their own power and permission, they proceeded hastily or incautiously, while evidence for the actual and more material interests of truth was strangely absent. Their Lordships were bound, and should have felt it, as he conceived, due to themselves, and to the ends of substantial justice and of truth, to have called for the production of so much of that evidence to which he had adverted as was relative to the great irregularity (to give it no worse a name) of the abstraction of a material witness, by Mr. Powell, who ought to have been compelled to produce it. When so much of that evidence as was relative to the affair of Rastelli should be produced, he should take upon himself to call for the judgment of the house upon the matter, and to know how they stood in that respect. (*Hear.*) One word more, before he sat down. His Noble Friend (Lord Calthorpe) had taken a distinction upon a very material point, to which he (the Marquis of Lansdown) could by no means subscribe. The Noble Lord had stated that he saw a distinction, in the conduct of the Noble Earl at the head of the treasury, as between a Minister of the crown and a minister of the King. He (Lord Lansdown) could not acquiesce in any such distinction; he knew of no such difference; he thought that the Noble Earl acted upon this, as upon all other occasions, as the minister of the crown; and as the minister of the crown their Lordships knew him. Sure he was that he only did justice to the Noble Earl when he said that the Noble Earl would not submit to be considered as acting in any other capacity. (*Hear, hear.*)

The LORD CHANCELLOR would repeat the substance of one observation, in which he had been led to state what he had stated with respect to the abstraction of Ras-

telli, and the difference between a present and a postponed examination. The same principle applied to the cross-examination of a witness who had been already examined in chief. His Lordship then proceeded to point out to their Lordships the disadvantage of delaying the cross-examination of the witness last at their Lordships' bar, and wished that any discussion that was not instantly called for might be deferred till that was over. A Noble Marquis (Lansdown) had said that the question which was put on Saturday had been put to-day. He (the Lord Chancellor) differed from that Noble Lord: the question of Saturday he took to be a very different one, and the answer of to-day was no means applicable to it. Why this point should have been pressed so often, or whether there should have been any delay of an answer, was a question upon which he would make no observation except this—that his professional experience very often furnished him with good reasons for delay. (*A laugh.*) The fact was neither more nor less than this, that his Majesty was advised to lay certain papers before that house, and those who gave him that advice were responsible for it: those papers, being sent down, were referred to a secret committee. The committee made a report, and after that report the Noble Earl (Liverpool) thought proper to bring in a bill founded upon it. Now this he (the Lord Chancellor) maintained was no prosecution; for neither was there any prosecutor, nor any petition presented against such measure. The Noble Earl was answerable to the country for bringing in that bill, as all those were who concurred in advising that course; and upon this statement he contended that he was justified in saying, here was no prosecution. What he wished their Lordships to do was, to proceed forthwith with the cross-examination that had been deferred, and then any question arising upon it might be impartially discussed; and, in despite of all the world, he might say, he was sure that it would be impartially, determined.

LORD CALTHORPE, in explanation, remarked, that what he meant to say was this:—He thought the Noble Earl, in relying upon the acquiescence of the house in his delay of stating who the prosecutor in this case really was, had rested rather upon the weight of his individual and personal character than upon any influence with parliament which government were usually supposed to exercise in such cases.

EARL GRAY only wished to state his dissent from one part of the statement made by the Noble Earl (Liverpool), to whom he gave full credit for candour and openness. But he had asserted, that those of their Lordships who had opposed the appointment of a secret committee had contended that a bill should be brought in upon the responsi-

bility of ministers. What those Noble Lords, however, did contend for, was, not that a bill, but that a charge should be brought in upon the responsibility of ministers (*hear*); and that ministers should not shelter themselves under the report of a secret committee. To the mode of proceeding by bill he (Earl Grey) had always had an invincible objection. With respect to the question immediately before their Lordships, he thought that the Noble Earl opposite had made no answer whatever to the clear, and, he considered it, convincing statement of his Noble Friend (the Marquis of Lansdown), as to the difficulty, if not inability, of the Learned Counsel to prove the conspiracy, arising out of the circumstance of their not being enabled to cross-examine the agent of the party to the fact. Where agency was to be proved, that agency it was rendered nearly impossible to trace, if it could not be also proved who was the principal in it. From what had passed he must assume that government were the principals; and, that being assumed, it was to be inferred that every person employed by Government in this business was their agent. Hence it followed that Col. Browne was an agent. (*Hear, hear.*) He did not know whether they might consider Hanoverian ministers as agents (*Hear*), but Col. Browne was clearly one. Well then—a question had been put with respect to the conduct of one Reganti, who had been sent by Col. Browne for the purpose of procuring witnesses to go to Milan. When grounds were made to appear at their Lordships' bar for the assertions that had been advanced by counsel with respect to bribery, he apprehended that he must consider the government as being the principal, Colonel Browne as their agent, and Reganti as employed by Browne. (*Hear.*) There was, at least, that degree of bribery proved, that they (their Lordships) must know how far persons so empowered as Reganti appeared to have been had been enabled to corrupt and tamper with witnesses, to the manifest perversion and destruction of all justice. (*Hear, hear.*) It was now for their Lordships to determine how far they would allow counsel to proceed with those questions to which objections had been started on Saturday. If those questions were not to be allowed to be put by counsel, he now gave notice that he should, after the examination and cross-examination were concluded, submit to their Lordships the propriety and necessity of their being propounded, in order that the House might know every thing which had been done by Reganti; and also because it was material to know every thing which had been done in this case by other persons acting under the commission. So convinced was he of the necessity of such questions being permitted, that he should certainly

take the sense of the House upon the matter. (*Hear.*)

The EARL of CARNARVON considered that the subject now before the House was connected with a sort of collateral inquiry, which he agreed with his Noble Friend (Earl Grey) in thinking it was highly important to go into. In the circumstance related as occurring at Carlsruhe there was but one witness (Barbara Kress): she was sent for, it appeared, to Frankfort, to be examined by the Hanoverian minister, and afterwards sent to Hanover. It was clear that other persons had been employed in that witness's examination besides the Milan commission. Who were they? or were ministers responsible for them as well as the Milan agents?

The EARL of LIVERPOOL explained in a low tone of voice. We understood his Lordship to say, that the witness had not been examined, he believed, by any body, after the period when she had been examined by Mr. Cooke.

The EARL of CARNARVON resumed; and said that still it was clear the Hanoverian minister had acted in some part of this business. (*Hear.*) What were his acts, then? and who were responsible for them? (*Hear.*) How was the conduct of agents to be thoroughly sifted, unless it was known who those agents were, and by whom authorized? Perhaps it might appear that there were other parties at work not connected with the tribunal of the Milan commission. Were those parties under the control of ministers, or were they not? Were they included in that responsibility which ministers were ready to avow? (*Hear.*) It was idle to proceed in the cause unless this information were fairly and fully communicated. How else were they to see their way through a series of proceedings in the collection of this evidence, in which both German diplomacy and German dexterity were mixed up in one confused mass? How else could it be known whether or no compulsion had been used by parties in that almost invisible empire? It was most material to know whether corruption could be traced in any of the proceedings of the parties who acted in these despotic states. It was most material to know whether, before the evidence was submitted to the Milan commission, it had undergone examination and garbling by the agent of any petty German despot, for whose acts no responsibility could be traced. These were the unexplained peculiarities of this so Germanized business. Let the ministers avow for whom they were responsible as ministers of the King of England. Did they mean also to say they were responsible for the ministers of the King of Hanover? If they did, perhaps it would be also necessary to know who were the responsible advisers of the Duke of Cornwall, or whether they might not have

had any hand in procuring some of these horrible means which were as disgraceful as they were malignant. This information he thought absolutely necessary, because who could say whether they might not be called upon, before they came to a vote on the bill, to sit in judgment upon the criminal advisers of this most shameful and miserable proceeding? It had been said, that when the evidence in this case were terminated, it would then become their Lordships's duty to decide upon the question, whether or no the preamble of the Bill was proved. They would then, it was said, have to decide upon the evidence, which, in his judgment, contained the silliest deposition that had ever found its way into a grave proceeding; they would then have to say whether the Bill should be read a second time or not. He would not say that this would become a part of their duty—though strange enough had been that duty, as exercised by their Lordships in this business, which bore no analogy to the ordinary judicial forms of the country—to its principles of justice, which seemed to have been long forgot—indeed, he might add, to common sense, as well as to the spirit and practice of the constitution. Their situation was, indeed, anomalous, and utterly at variance with all precedent. It was said, that when called upon to vote for the second reading of the bill, they might devise some means of modifying the terms of the preamble, and designating the imputed offence in terms of less severity; that then they might call the act, perhaps, censurable, or change the force of its character. He would, however, plainly tell their Lordships that they had no way of making the matter palatable: he feared the public ear had been long since turned away from their proceeding in this repulsive transaction. In any way in which they viewed going on with the Bill they would only have to encounter new and more appalling obstacles. How could they vote the preamble of the Bill proved, and then resort to a new measure of a different form? Such conduct would be a gross insult to the unfortunate woman against whom the Bill was directed. That, indeed, would, on the part of their Lordships, show a disposition.

“To hint a fault, and hesitate dislike—  
“Willing to wound, and yet afraid to strike.”

(*Hear.*) He knew, indeed, that this course was suggested for the purpose of saving their consistency? How would voting all the charges proved, and yet abandoning the preamble of the bill, show their consistency? How would admitting the principle, and then recording a vote contrary to all justice and common sense, manifest their consistency? He implored them to avoid such consistency, and declared that the only proof of rational consistency they had it in their power to show was to abandon the course into which

they had been betrayed, to confess their error and alter their progress. His own opinion he had long since declared, and he had no objection to repeat it now—namely, that, whether the charges were proved or not, this Bill never should have his concurrence. Entertaining this opinion throughout, he had objected to, and had condemned their mode of inquiry from the beginning. For what purpose, he had always said, pollute their ears, disgust the public, and disgrace their journals, with the detail of such gross and scandalous evidence? This, he repeated, was his opinion of the Bill, and had only to reiterate the necessity of their stopping before their situation became inextricable. Their responsibility was great, their situation critical; and he again implored of the House to pause before their situation became irreparable. (*Hear.*)

LORD MELVILLE said he had a motion to make in consequence of what had fallen from a witness, (Sir John Beresford) at their Lordships' bar this day. It was, that the proper officer from the admiralty do attend the House with an authentic statement of the services of Wm. Carrington, who was a Quarter-master in the year 1811 on board his Majesty's ship *Peitiers*, on board that ship, and in any other in which he might have served. The Noble Lord observed that the ships' books would furnish the necessary information.

The question was not put on this motion? but it was understood to have been agreed to.

**FILIPPO POMI** was again called to the Bar, and Cross-Examined by the ATTORNEY-GENERAL.

You stated on Saturday last, that you resided in the house at the Barona?—Yes I did.

Is it now called the Villa Bergami? Yes; at present it is called the Villa Bergami.

How long has it been so called? A little time ago.

How long? About 3 months ago, after the former possessor sold it.

Was it not called the Villa Bergami before? Yes, it was, after Bergami purchased the Barona.

How long ago is it since it was first called the Villa Bergami? I believe Bergami bought it in the year 1816.

After he bought it, did you continue to work there as his carpenter? Yes, I have.

Have you continued so to work for him down to the present time? When he became master, I continued to work for him as I had done for the previous possessor.

When did you last see Bergami? This I do not quite recollect, but I must have seen him in the month of August.

Where? At his house.

Did you see him any where else? I have seen him in no other place, for I never saw him out of his house.

Did you not see him on the day he left the Villa Bergami? I did not.

How long before was it that you had seen him? I left the Villa Bergami on the 20th of last September, and I do not think I saw Bergami since the previous month of August. I cannot exactly remember the day.

Will you swear it was not in the month of September? I cannot swear exactly whether it was early in the month of September or late in the month of August. I have it not in my memory to tell.

How long before he left the Villa Bergami did you see him? I cannot tell, but as I have said.

How many days? I do not know.

Was it within a week before you left the Villa? It was more than a week.

Was not Bergami living at the Villa when you left it? No; he had gone away from it; but when, I cannot say.

Who desired you to come over here as a witness? No one; I came with my own will.

Then you came voluntarily—there was no application for that purpose? I came here by my own will, because I heard that the Advocate Codazzi was receiving witnesses, and I went to say that I had something to say in favour of the lady, who had done me a great deal of good as well as others.

Some conversation took place among counsel, and between the interpreters, whether the witness had used the Italian pronoun *mi* in his last answer. It was stated that his answer was, "a lady who had done a great deal of good generally."

The question was repeated to the witness, and his answer was—"To me, and to all the people generally at the Barona."

Do you mean to swear that you went to Codazzi of your own accord, and without any previous application? Yes; I will swear so before any tribunal.

Did any body apply to you to go to Codazzi before you went to him? No; I heard that Codazzi was receiving depositions in favour of this Lady, and I went to him for the reason I have said.

When did you go? On the 24th of August.

Was Bergami then at the Villa? He was not.

Was Bergami at Milan?

Mr. Denman.—How can he know when he says he did not see him?

The Attorney-General replied, that he might have seen him when he went to Milan.

Mr. Denman.—What! seen him at the Barona.

The Attorney-General.—No, but at Milan.

Was Bergami at Milan when you went to Codazzi? I did not see him; I only saw Codazzi.

What did Codazzi say to you? He told me this—"If you have any depositions to make, you may go, because your depositions are good."

Were you examined by Codazzi? Yes.

Who was present when he examined you? Nobody.

Codazzi having said you must go, then did you come over here of your own accord? Yes, I did, because I do think the request for that Lady to go 100 miles, I would go, because I would go willingly.

[Here some conversation took place between counsel upon the terms of the last answer; but it was found to be accurately rendered by the interpreter.]

After you were examined by Codazzi, and before you set out, did you see any other person about the business? No.

Have you seen an English Advocate in Milan? Yes, I have.

When? The day after I saw Codazzi.

Who was with the English Advocate when you saw him? Nobody; I saw only him.

Where? I went to his house of my own accord, as I did to Codazzi.

Did you see them together? Not at that time.

At what time? When Codazzi came once to the Barona, he was with him.

You knew he was an Englishman? I knew he was a foreigner, an Englishman, for he did not speak to me. I merely showed them the house.

Do you know Vassali? Yes.

Have you seen him? Yes.

Did you come to England alone, or in company with other persons? I came over with Jerolini, and three other persons.

Have you ever seen the Count Vassali? Yes, I have seen him.

Where have you seen him? At Milan.

In what part of Milan? In the neighbourhood of the house in which he resides.

Did you on any occasion call at the house of Count Vassali? I never did.

Did you never see him but on one occasion? I have seen him on several occasions, both in the years 1817 and 1818.

Have you seen the Count Vassali at any other place than Milan on the subject of your coming here? I have seen him sometimes in this country: I have seen him in London.

Did you pay your own expenses in coming voluntarily to this country? No; they were paid for me.

By whom? My late master paid them.

Is Jerolini your late master? He is my master.

Was he your master when you lived at the Villa Bergami? He was.

What are you to be paid for coming to



this country to give evidence on the subject of this prosecution? When I went to the Advocate Codazzi, I said that, if the affair was an affair of a little time, I had no objection to go, and that I would go a hundred miles for nothing, without any interest.

What is the amount of the sum of money which you are to receive for coming here? I cannot speak as to pay; for, when I was with the Advocate Codazzi, I said that if they would do something for my family, I would go to the length of the world, if it was to serve that lady.

By that lady did you mean her Royal Highness the Princess of Wales? Yes, I meant her Royal Highness.

Are you, then, to receive nothing for your stay in England? Nothing; if they do something for my wife and children, I have no expectation for myself.

What is the sum paid to your family? There is a livre allowed to my wife, and half a livre for each of my children,

How many children have you? I have two daughters.

Is that all you are to receive, and all that you expect, for coming to this country? I have already said that this was for my family: as for myself, if they shall give me something, I will take it.

Will you swear that you have made no agreement with regard to what you are to receive for coming here?—I will swear that I have made no agreement about money; but as there are other people who have hopes, so have I also. (*a laugh.*)

What are the hopes then which you entertain?—I have no particular hope; I would make no agreement for any service to be done to that lady, on account of the benefits which I had received from her before.

You stated when you was here last, that when Rastelli came to the Villa Bergami in the Barona, he was accompanied by the son of the head-master; what was his name?—Antonio Jeramini.

Was he an architect as well as his father?—He was more clever than his father. [*a laugh.*]

Did he take a plan of the house at the Barona?—Yes, he made a little drawing or design.

Who were present at that time?—He came with Madame De Mont and Rastelli, or about the same time.

Did he go away with the others?—No, the others went away in a carriage, and the head master's son and Rastelli went out of an opposite door, and began to leap for joy, and to congratulate one another.

As you have resided so many years at the Barona, do you remember any dances at the time when her Royal Highness and Bergami were there together?—Yes, I do.

Do you remember a person named Antogeni?—Yes, he was a lieutenant.

What was the extent of the garden at the Villa Bergami?—I cannot say precisely.

No, not precisely, but as nearly as you conceive?—It might be about a thousand yards. (*braccio.*)

What was the size of the house and grounds?—I cannot say exactly.

What number of acres did they cover?—I do not know what an acre means, how can I know it.

Had not Antogeni two daughters?—He had several children.

Did they visit her Royal Highness at the Villa?—They all came one evening, because her Royal Highness wished to see the whole family, that is, all the children of the same father and mother.

What other persons attended the balls given by her Royal Highness?—They were all persons well brought up, and the sons and daughters of parents well brought up. The fathers were always present with the daughters.

Were there any persons in a low situation in life present at any of those balls?—There were some other girls, but all well brought up people.

In what situation of life were the greater part of those who attended the balls—were they all gentry? The men were gentry, and the women gentlefolks. (*signore.*)

Did you know a person named Maria Galletti? I do not remember her particularly.

Did her mother keep a public house called the St. Christopher's? You must have mistaken the name.

What then was the name? Rosina.

How long had she lived at the Barona? A very long time.

Was she ever present at the balls? She might be, but if she was, she was brought by the other girls; she was a respectable woman, not a bad woman; not a prostitute.

But was she ever present with what you call the other gentlefolks? She was present only once in company with the other gentlefolks.

Was she one of those whom you call gentlefolks? She was mother to another girl.

Was the mother of any other girl also at the ball? I do not know.

Who now keeps the public-house called the St. Christopher's? The name of the inn-keeper afterwards was Antonio Jerome, but the name of the son, who now has it, is Giovanni.

Did his wife and his wife's sister frequently go to the balls given at the Villa Bergami? I never saw his wife there but once.

How often have you seen his wife's sister there? His wife had no sister.

Do you know a blacksmith at the Barona named Baptista? No, there is no blacksmith of that name.



What is the name of the blacksmith at the Barona? His name is Manti.

Did he and his family also attend the Princess's balls? No, he had no daughter; but he had three sons.

Did any of them go to the balls? I never saw any one of them.

Do you remember being one day at work at a door up stairs in the Villa Bergami? I have worked many times in the different rooms of the house: how can I tell what you mean?

Do you remember going up stairs on one particular day? How am I to remember that? I went up a hundred times.

Did you ever see her Royal Highness at any time up stairs? No, I do not recollect: in general I saw her down stairs, or in the hall; but I do not believe I ever saw her up stairs whilst I was mending a door.

Did you ever see her Royal Highness in any room up stairs? I have seen her in her own room.

Whilst you were repairing the door? No, I cannot remember that: it was once when I was carrying up a chest of drawers which had been out of order.

Were you carrying that chest of drawers into her Royal Highness's room? Yes, and it was then that I saw her there.

Was Bergami at that time in the room with her Royal Highness? No, I did not see him.

By whom was her Royal Highness attended on the occasion? I saw no person.

Will you swear that Bergami was not in her Royal Highness's bed-room? Yes, I can swear before God that he was not.

Will you swear that you never saw him there at any other time? I never saw him there.

Are you sure that you never said that you had seen Bergami in her Royal Highness's bedchamber? How could I say so when I never did see him there?

Have you never said that you had seen him in the room of her Royal Highness? I have told you that I knew nothing of it.

Will you swear that you never told any body that you had seen him there? I will swear that I never saw him there.

Have you never said that you saw him? I can have said nothing of this; I never spoke for above five minutes to the men about the chest of drawers.

Have you not said that you went up stairs, on one occasion, to repair a chest of drawers? I have said that I went up stairs to mend that chest of drawers.

On that occasion was it that you saw the Princess in her bedroom? Yes.

I ask you again, whether you have never, on this or some other occasion, said you saw Bergami in the Princess's bedroom? How many times must I say the same thing? I have said I cannot swear I ever saw Bergami in the Princess's bedroom.

Tell him I did not ask him whether he saw Bergami in the bedroom of the Princess, but whether he ever said he had so seen him? I never said it, nor have I ever seen it.

Do you know the wife of the Baron Bergami? I do.

Have you ever seen her at the Villa Barona? Yes, before I set out she was there.

Before you set out for England? Yes.

Did you see the little Victorine at the Villa Barona when you were going? No, the little Victorine was not at home; she was at school.

Where was she at school? I don't know the place.

You have just now said that many gentlefolks attended at the dinner parties. I wish you would have the goodness to state the names of any of the gentlefolks who dined at the Villa? I cannot recollect them.

Can you mention any of the names? There was Signora Domatina, there was the Professor, and many other persons, who, if they were before my eyes, I might mention by name.

Who is Domatina? Where does she live? What is she? She lives at the Barona.

Is she a lady living on her fortune? She is a girl, well brought up, and the flower of gentlefolks. (*A laugh.*)

Is she not the daughter of a man who keeps one of the inns at the Barona? Yes, she is the daughter of Antonio. (*A laugh.*)

At the instance of EARL GREY, the last question and answer were read.

EARL GREY.—Before the re-examination commences, I take the liberty of submitting a question. I should wish, in the first place, to ask whether any proposition was made to the witness to give evidence against the Queen, and by whom? No.

Did no person speak to you upon the subject of giving evidence against the Queen? There is Rastelli, as I mentioned the other day.

Was he, Rastelli, the only person who spoke to you? There was another person of the name of Reganti, who, when I went to his shop to buy snuff or something, told me—

The Attorney-General objected to the answer which the interpreter was translating.

EARL GREY conceived the interruption to be irregular. A question had been put, and an answer given; but, while the interpreter was translating it, he was interrupted by the learned gentleman. He thought it was the duty of the House, and of the Learned Gentleman to hear the answer, and if it were then deemed illegal it could be struck out.

The shorthand-writer read the question and the portion of the answer that had been given.

EARL GREY.—He was proceeding to

jectionable means. The consequence was, that witnesses were brought to their Lordships' bar to perjure themselves. Would their Lordships decide on such evidence? Was it not proved by a particular witness that he was offered a bribe? Did not their Lordships see, that, in those countries where the witnesses lived, bribes were to be had, fortunes were to be made, provided individuals went before the Milan commission, and gave evidence against her Majesty? Not to hear witnesses examined on these points struck at the fountain of justice, and overturned the rules of evidence. When those persons went before the commission they gave their depositions, and they were sworn to those depositions before that commission; though on what authority they were so sworn he protested he did not know. He knew not by what power it was that a commission could be sent forth from this country to act under a foreign government, and having at the same time authority to administer oaths to witnesses, for the purpose of afterwards bringing them to England. When they came here with their depositions—when they were brought to the bar of the House—could it be doubted whether or not their Lordships should take these circumstances into their serious consideration? Could it be said that the government who brought forward this bill were not responsible for every act of the Milan commission, and for every act done by every subordinate of that commission? Could it be seriously said that they would not receive the evidence on the points he had adverted to? And why? Because it was not deemed admissible evidence. But how stood the fact? The Milan commission gave Reganti power to act in their behalf: it was in evidence that he was employed to procure witnesses; and they adopted his acts by examining the witnesses he brought. Therefore he hoped their Lordships would be of opinion that it was absolutely essential to the attainment of justice, that this evidence should be received, in order that the circumstances might be probed to the utmost; and then, he trusted, her Majesty's Counsel would be able to show their Lordships, that, throughout the whole of the scene where those criminal acts were stated to have taken place, there had been agents, almost without number, travelling through those countries, seeking out persons whom they supposed, by possibility, might have some knowledge of transactions relating to the Queen, and offering to them bribes, and seducing individuals, whose situations rendered them most likely to be induced to perjure themselves before the commission, and afterwards to come forward to support that perjury here.

The Attorney-General was sure their Lordships would pardon him for offering a short reply to the representations of his Learn-

ed Friends who had just argued this question; and he must confess that he was astonished at the bold assertions made by those Learned Gentlemen—assertions which the evidence entirely negatived. He almost doubted whether his Learned Friend who last addressed their Lordships had made himself acquainted with the evidence; because, if he had, he must have known that the administration of oaths by the Milan commission, so far from being proved by evidence, was absolutely negatived. Rastelli stated to their Lordships that no oath was administered to him; and, as far as he (the Attorney-General) recollected, every witness who was asked the question denied the fact. He believed that no oath was administered by the commission to the witnesses at the time they made their depositions.

Dr. Lushington here interrupted the Learned Gentleman. He would at once refer him to page 227 of the minutes, where it was stated by Ragazzoni that he was sworn before the commission. The evidence on this point was as follows:—

“When you were examined at Milan, was what you had said taken down in writing? It was taken in writing.

“Did you sign it? I did,

“Were you sworn? Yes, I took an oath at Milan.

“Who swore you? The advocate Vilmarcati.

“In what form? He told me, ‘Are you ready to swear upon the truth?’ and I said, ‘Yes, the truth.’

“Were you sworn upon the Gospels, or in what manner? He told me, ‘You are then ready to come and swear to the truth?’ I said, ‘Yes, I am ready to come and swear to the truth.’

“Were you sworn upon the cross at that time? Yes, I took the oath upon the cross; I took the cross which I carry about me, and I kissed it myself before Vilmarcati.”

The Attorney-General. Now, he would contend that the witness was not sworn to his evidence by Vilmarcati. (This observation gave rise to loud and general expressions of surprise in the House.)

The LORD-CHANCELLOR. My Lords, I do not believe that there is a Learned Counsel who would not leave any court in Westminster-hall if he were treated thus.

The Attorney-General resumed—He wanted to bring the fact before their Lordships, and to call on them to look minutely to the evidence as it stood on the minutes. Rastelli denied expressly that he had been sworn. If they examined the evidence of Ragazzoni by itself, and, still more, if they examined it in connexion with the evidence of other witnesses, the matter would at once be explained. The question put was, “Are you ready, if required, to swear to the truth of this deposition?” he answered “yes;”

and he then took out the cross and kissed it himself. But this was no proof that any oath was administered by Vilmarcati. On the contrary their Lordships would find that the question relative to the administration of an oath was repeatedly put in the course of the evidence, and as repeatedly negatived. He would again state to their Lordships, with perfect confidence, that if they examined the evidence fairly and candidly, they would see, that though the witnesses were asked, were they ready to swear to their depositions? yet no oath was put to them. They were all asked if they were ready to swear; and they answered that they were, if called on to depose upon oath. In saying this, he stood in their Lordships' judgment; and, of course, his assertion would go for nothing, if it were not borne out by evidence: but, on examining the evidence, it would be found that no oath was administered to the witnesses by the commission; but, as he had before said, they merely stated what they knew or had seen connected with the subject under investigation, and they were asked whether, if required, they were willing to be examined on oath. This was all that took place, and no oath was administered. Why did he state this? Because, if assertions were confidently made on the other side (assertions which had no more to do with the question than the most remote subject that could be discussed,) they must be met by a reference to facts. What was the question they were now called on to decide? It was merely this—whether or not it could be inferred, from the evidence given by Rastelli, that there was that sort of agency, on the part of Reganti, which his learned friends themselves admitted must be proved before a particular line of examination could be pursued. He denied that any evidence had been given that could lead to such a conclusion. It was asserted, on the other side, that Rastelli had offered money. It was not necessary to go into that point now; it might, hereafter, be adduced in contradiction to what that individual had sworn; but he could not allow the witness, who had stated that Rastelli offered him money, to go further, and detail a conversation he had with another person. It was now stated that Reganti was the agent of the Milan commission, and, therefore, that evidence respecting him ought to be received. But where was the proof of this agency? All that was said by Rastelli was, that a man of the name of Reganti, a tobaccoist, came to tell him that the Advocate Vilmarcati wanted to see him; and his evidence then went on thus:—

“Was any body with the Advocate when you first went? There was not.

“Did the Advocate then take your deposition? He did not.

“Did he ask you any questions about what you knew? He did.

No. 47.

“How soon after that did you go before the commissioners? I believe a day or two after.

“How many persons did you find assembled there? There was the Advocate three English gentlemen, and two Italian amanuensis.

“Did you then tell the same story you did today? I did.

“Was it taken down in writing? It was.

“Were you sworn to the truth of it? They did not swear me, but they told me that I should be obliged to swear to the truth before a tribunal? I said I would.

“Did you then take out your own cross and kiss it?—I did not. I was not then to take an oath: he only told me that I should be obliged to swear, if the occasion should require, before a tribunal; and I said that I would.”

All that they were told, therefore was, that Reganti came to this witness from Vilmarcati, and from that his Learned Friends argued it must be concluded at once that Reganti was the authorized agent of those persons who formed the Milan commission; that he did not go to Rastelli only, but that he was an authorized agent, appointed specially to collect evidence. If on so slender a ground they let in evidence of this nature, their Lordships could not tell where they were going, or where they were to stop, on such an occasion. They would, in fact, be trying collateral issues, instead of being guided by proper evidence—that which alone they ought to look to—namely, the truth or falsehood of the preamble of this bill. They were asked to proceed in a different course; to admit evidence, which would be received in no court of justice whatsoever, even in a civil case. It was clear, *ex concessis*, on the other side, that this evidence could not be admitted, unless proof were given of the actual agency of Reganti. No such evidence had been given, or was now offered. When that agency was established, it would be time enough to see whether, even then, such evidence as that contended for could be received. At present it was sufficient to inquire whether there was any evidence of such agency.—Could it be admitted that, because a servant carried a message, his principal became accountable for all his acts? Undoubtedly not. Here nothing appeared but that this Reganti told Rastelli to go to the advocate—and that he went in consequence. But, admitting this, was such a circumstance to let in all his acts, and all his statements, as evidence? He interposed this objection.—It would be for their Lordships to decide whether they would be guided by the rules only that obtained in courts of law. He conceived that the decision their Lordships had arrived at on Saturday, and which appeared so clear that it occasioned little argument, supported

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the answer given by him and his Learned Friend to the other side. It was so clear, that after refusing the question which was then put, he thought it was impossible for their Lordships to admit the question which was contended for on the present occasion. There was no more reason, in his opinion, for letting in the confessions and declarations of Reganti, than there was for admitting those of any other individual who had chanced to be named in the course of these proceedings.

The LORD-CHANCELLOR thought it was his duty to state, that, according to any understanding he had of the principles and law of evidence, these declarations could not, in the present stage of this proceeding, be admitted; and, if any Noble Lord could entertain an opinion, that according to the course and practice of the courts below, the view which he (the Lord Chancellor) took of the subject could be so far contradicted as to have it shown that the practice of those courts would let in such evidence, it would be competent to that Noble Lord to have the advice of the Learned Judges on the question, and he would feel obliged to the Noble Lord who called for that opinion, in order that he might thereby correct his own. So far from his mind being satisfied with what passed on Saturday last, he did assure the Noble Earl (Grey), that recollecting what had occurred on that occasion, he had since paid much attention to the subject. "There was a great deal of good sense in a few words of bad Latin; *Qui pauca considerat facile errat*;" and he had not failed, since that time, to put to himself several questions on the subject—to reconsider it, in fact, as it had undergone so little discussion. In the first place, he would call back their Lordships' recollection with respect to what passed as to the witness Rastelli. He stood on their minutes as having given particular evidence; and witnesses were called to their bar, (and, he thought, most properly and justly called to their bar, in the absence of Rastelli, considering that absence not to have been occasioned by the party opposed to the bill,) in order to state declarations that had been made relative to that person, with a view to his contradiction; and the witness was asked a question, whether Reganti had ever made any declaration to him? This, taking it in any point of view their Lordships pleased, could not be admitted, under the present circumstances of the case. Here he hoped he should not be told in any future stage of this question that there were any Noble Lords sitting in that House who could have any anxiety with respect to personal convenience. He protested against it as the most unjust thing that could be imagined—as a thing that could not be tolerated. He would put what he was now about to state in a purely hypothetical

manner. He would suppose, hypothetically, that the government might be called, if they pleased to give them the name (as odious a name as could be given to them)—the prosecutors on this occasion; that the Milan commission were, as they had been called the other day, a branch of the joint-stock company: assuming this to be true, he would suppose that the government, or the Milan commission, or both, having been distinctly proved to be the prosecutors in this business, had employed certain agents, whose acts were to be made evidence in this proceeding: it could not be done unless proof were given of that agency; and, in this case, no proof was given that Reganti was an agent of any body. Now, before the act of an agent could be given in evidence, he was justified in saying that the agency must be established. There were various ways to establish the fact of agency. It might be established by the admission of the principal; it might be established by the agent himself making proof of the fact; and it might be established by the evidence of other persons, with respect to the acts of the person represented to be the agent. The law allowed the agent to prove it himself, which was a better mode than by having recourse to the evidence of third persons. The agent might, therefore be called to prove what came within his own knowledge. This was not attempted here. Was there any admission of the principals in this case? Certainly not. Suppose the acts of Reganti did not prove him an agent, had he been called himself to show his agency? He had not. Was there, then, any proof given by other persons? He knew it might be said—and, in all probability, it would be said—that it was placing individuals under great difficulties if they were asked to call persons to prove an agency, who might also prove other circumstances which the party by whom they were called did not wish to give in evidence. Supposing it to be so, were the rules of law, therefore, to be broken down, in order to remedy the inconvenience? The third species of proof was from acts done by the person alleged to have acted in the character of agent. Now, if their Lordships would look to the evidence, pages 410, 411, 412, they would see that there were no acts given in evidence which proved agency:

"Who sought you? The first time, a man of the name of Reganti came to tell me to go to the advocate."

Was it, then, to be contended, that because Rastelli, in consequence of a message he received by Reganti, went to the Milan commission to be examined—was it therefore to be contended that Reganti was agent to the Milan commission? Because one man was sent to call another, agency was to be inferred! He could only say that, in the course of his experience, such a proposition



he had never heard. The Counsel for her Majesty was bound to call Reganti, then, if they meant to proceed upon his acts. His Lordship did not know how he should act, if called upon to give his opinion judicially upon the obligation to tell where Reganti was to be found; but if he were asked where he was, and knew where he was, he would have told it at once. If their Lordships should, without calling Reganti, suffer Counsel to give evidence of what Reganti had said, where would they stop? If they called Reganti and proved agency, then they might proceed to hear evidence of his sayings and acts. But, otherwise, the consequences might be monstrous. There might be conspiracy on one side as well as on the other. He did not mean to throw out any insinuation. Whatever the result of this inquiry might be, he would never forgive himself if he threw out any thing to fix an imputation during the inquiry. But there might be conspiracy against conspiracy. If, then, 19 or 20 persons should come before them and swear that they had been offered money, how could their Lordships say on which side those who offered money were employed? They must prove a great deal to prove an agency by the acts done. This was not proved in the present instance; therefore the agent must be called, whatever might be the consequence of calling him, if his acts were to be given in evidence. This was his view of the present objection. It would be a great relief to him if any Noble Lord would draw up a question to be submitted to the judges respecting this point. He felt always great reliance on the experience and wisdom of the judges, and the sanction of their authority was a great relief to him in every case of legal difficulty.

EARL GREY said that the Noble and Learned Lord had correctly stated, that when he (Lord Grey), proposed that this question should be put to the witness, he did it in consideration of the decision of their Lordships on this point on Saturday last, not believing that the decision was right in the peculiar circumstances of this case. He had been desirous that the Attorney-General should state such objections as might occur to him, that their Lordships might deliberately consider the subject, with the manner in which the Attorney-General had supported the objection. The objection was ably made by the Attorney-General, and ably supported by the Noble and Learned Lord. He might perhaps expose himself to the imputation of pertinacity, when he still persisted in entertaining the opinion that the question ought to be put. The statement of the Noble and Learned Lord as to the practice in the courts below was, no doubt, quite correct; and if the point were submitted to the Learned Judges, their decision would be such as the Noble and Learned Lord had stated, and therefore he had no wish to refer the point to

them. He would admit that, according to strict and technical rules of law in other courts, the question could not be asked.—But the question was here, whether their Lordships were bound by those strict and technical rules, or whether the peculiar circumstances in which they were placed did not require some relaxation of those rules, and authorize them to do what in other circumstances would be irregular. He had admitted before, that it was desirable that the House should restrain itself as much as it possibly could by the rules of law; but the House was not to be restrained from a departure from those rules when circumstances justified such a departure. The question was, then, whether they were here so situated as to be authorized to depart from strict rules of law? What was their situation? It was admitted on all hands that the general agency of Reganti was not so proved as to authorize questions to be put respecting his acts and sayings. But he begged their Lordships to recollect that this was a Bill of Pains and Penalties—a Bill of Pains and Penalties proposed by his Majesty's government—a Bill of Pains and Penalties supported by evidence collected by a commission which had been appointed by the government. It was a severe and anomalous measure to deprive the Queen of her rights—to degrade her from her dignities—to remove her from the rank and station which belonged to her. Whatever in course of such a proceeding appeared at all suspicious or tainted, ought to be rejected.—He agreed with a Noble Lord, that in such a proceeding they were bound to see that the evidence should be not only unsuspicious but unsuspected. (*Hear.*) It was proved by Rastelli that Reganti had been employed to bring witnesses to Milan. Rastelli said Reganti came to him to desire him to go to Milan to give his deposition, and he in consequence went. Where got Reganti this instruction to seek for witnesses, and to get them to give evidence? When their Lordships found this fact established, and when they found that he went to a witness and stated, "If you will give particular testimony, you will get a great reward;" who could deny but this must affect the Bill now before them, and influence their decision? (*Hear, hear, hear.*) He admitted that a general agency was not proved in such a manner as would authorize the calling of evidence to the acts of the agent in the courts below; but such acts were proved on his part under the Milan commission to collect witnesses and to suborn testimony, as made it the duty of their Lordships to go into the inquiry, in order to see that they were not imposed on by corrupt and suborned evidences. These were the general views on which he thought it justifiable to depart, in such a case as the present, from the strict rules of law in the courts below;



for, thank God, no similar cases were to be found in those courts. He felt great reluctance to press what had been opposed by the Noble and Learned Lord; but by whomsoever the witnesses had been acted on, and by whatever means evidence was corrupted, those agents, and those means, he felt it his duty to require to be fairly exposed to their Lordships. Therefore he pressed his opinion, if any Noble Lord supported that opinion, for he knew not whether any other Lord entertained the same views of this point. He had no interest one way or other. He only wished the case to be laid fairly and completely before the public, that no decision might rest on suspected, contaminated, and corrupt evidence, and that no unexamined and unascertained imputation might rest upon the proceedings. (*Hear, hear.*)

The EARL of LIVERPOOL said, he understood the Noble Lord to admit, that if the question arose respecting a conspiracy in the courts below, he did not dispute the law of his Noble and Learned Friend, but to contend, that upon the specialty of the case, upon the extraordinary circumstances of this bill, their Lordships ought to be induced to depart from the course which they had hitherto adhered to, and which was adhered to in the courts below. Now this appeared to him a most awkward period to adopt a proposition of this nature, when hitherto they had governed all their proceedings by the understood general laws of evidence. He admitted that there was no absolute obligation to adhere to those laws; it might be necessary to open a wider door for evidence than those laws allowed. As their legislative functions were unlimitable, it was impossible to say in what situation they might find themselves to which the ordinary rules of law could not apply. The necessity of departing from those rules was to be deprecated, and therefore their Lordships had imposed on themselves the shackles of law. He put it therefore to the House, whether, in this part of the case, they would suffer questions to be put which might lead to an inquiry that would be interminable, or at least most extensive. It was not this particular question only that they would be called on to allow. If their Lordships departed here from their usual course, they must depart from it on every important inquiry that could be suggested. The Noble Earl had said that they were not to be bound by the nice and technical rules of law. But this was not a nice and technical objection, as many objections, he admitted, were, but was founded on the eternal principles of justice itself. It was this—that where the principal was to be affected by the acts of the agent, there ought to be the clearest evidence of agency. Speaking generally—for he now did not allude to this particular case, but speaking generally—nothing was easier than for one side to employ as agents for the

other, persons who should commit various acts of bribery and corruption, and then to bring forward those acts as done by the agents of the adverse party. Let their Lordships only see what monstrous injustice would thus be done. (*Hear, hear.*) He could not conceive any principle more intelligible to common sense, and that ought to be more intelligible to every professional mind, than that the clearest and most intelligible evidence ought to be given that individuals are agents, before their acts can be received as evidence against their principals. He would desire their Lordships to look at the evidence for proof of any agency on the part of Reganti. They would find no more than this—Vimarcanti desired Reganti to tell Rastelli to come to him. He did not say even to be examined. This was a message only, as it stood upon the evidence. To proceed on this as evidence of agency was to violate not only every principle of established law, but every principle on which substantial justice and substantial law were administered. He agreed with the Noble Earl that every part of the evidence in the case which was doubtful or suspicious ought to be left out of view. This bill could not be passed but on clear and indisputable testimony only. Evidence which could be fairly objected to, he did not say by Counsel at the bar, but by any Peer, as tainted with suspicion, ought not to influence the final decision of their Lordships. They were to strike out every thing suspicious. He could not, therefore, see how the refusal to go into this inquiry could prejudice the illustrious person whom it was supposed to favour. As to the Milan commission, he had already said that he had not the least objection to go into the fullest investigation respecting it; but he objected to that investigation being introduced by a side-wind, in a most inconvenient stage of the proceeding, when their Lordships found themselves so fettered and embarrassed that they could not do it justice. Let it be introduced on its own grounds, when there would be this advantage—that their inquiry would not be shackled by rules of evidence. Whether he considered this question in its bearing upon the case before them, or on the principles of general justice, he could not bring his mind in the present state of the case, whatever might appear right and necessary in different circumstances, at present he could not bring his mind to consider it consistent with justice to put the question proposed.

LORD ERSKINE agreed that the Noble and Learned Lord's law upon this point was clear and indisputable: and the only question was, whether the question proposed to be put to the witness was not necessary to arrive at a just conclusion upon the evidence before them. The Noble Earl who had last spoken said that it was too late now to alter the

rules on which they had hitherto proceeded. He agreed in that proposition, unless he could show that this particular inquiry was impracticable in any other form but that now proposed. He did not rise to oppose his Noble and Learned Friend's opinions. He agreed in those opinions, but he rose to state why he thought that in this instance their Lordships ought not to be confined to the rules of strict law. If he on any occasion expressed opinions, or if any Noble Lord went beyond the evidence before the house to animadvert on any individuals, it was the duty of the house, or of the Counsel at the bar, to correct that error. He had not said that the gentlemen of the Milan commission had conducted themselves improperly. On the contrary, he was ready to bear testimony to the honour and integrity of the gentleman who was at the head of it. But he had said, that if the commissioners were pure as angels, still the witnesses might have been corrupted before they were brought to them. It was for their Lordships to say whether they would rely on the evidence of persons so corrupted, and evidence so much shaken and contradicted. (*Hear, hear.*) He believed he had said, at least he meant to have said, that there was evidence to call for an inquiry whether there had not been a conspiracy to procure evidence against her Majesty. The principles on which the Milan commission was founded were not in issue, and the commissioners had not been suspected by him; but if they wished to have his opinion upon the evidence produced, they must not decide too hastily against the utmost inquiry into the mode of procuring that evidence. The Noble Earl on the other side had said, much to his honour, that it was only evidence untainted by suspicion on which the House could decide. But the inquiry now proposed affected the whole of the evidence. It was, therefore, necessary, if the whole of the evidence should not be destroyed, to inquire into the means of obtaining witnesses. In a former stage of the proceeding the judges had given their opinion according to the established rules of law in the courts below. Yet their Lordships, by calling back Majocchi, departed from those rules, for the purpose of substantial justice. If Reganti was not an agent, what was the meaning of the conduct imputed to him by the evidence before them? He came to Rastelli, and asked him to go to Milan to be examined. (*Cries of hear, hear.*) He desired that part of the evidence to be read. His Lordship afterwards read from page 410 of the evidence the account of Reganti's invitation to Rastelli to give evidence (under head "cross-examined by Mr. Wilde.") This proved that Reganti was agent for the purpose of going there to get Rastelli to give evidence. If Rastelli had had no disposition to go of his own accord, it was the agency of Reganti that pre-

vailed upon him to go. It would be for their Lordships, by and by, to consider what weight or confidence they could give to evidence so procured. It would be quite impossible, according to the doctrine of his Noble and Learned Friend, to prove agency wherever there was a conspiracy, or attempt at subornation: for, should they call Reganti it would be not to prove that some had been corrupting and corrupted, but that he himself had been corrupting and corrupted. He did not ask what the consequence would be of calling Reganti, but he asked, for what purpose he could be called to this point: for, if placed at their bar, he could not be asked whether he had offered money to bribe witnesses. If their Lordships were of opinion there was no conspiracy, they could say so; but how could they be satisfied there was none unless they heard the evidence that was now offered? And if they did not satisfy themselves whether persons went about telling witnesses, "if you will give evidence against the Queen you will have a great reward," how could they ascertain whether this was so or not? He could not suspect that such subornation proceeded from the Commission at Milan, but when he saw a great personage discountenanced by all the powers of Europe—driven from her own country, and from the society of her friends—sorrowful in her circumstances and prospects—and when he saw all the power of the State arrayed against her, he, from experience, which was as extensive in such matters as that perhaps of any of their Lordships, felt it to be of the utmost importance to ascertain how persons came to be witnesses against her. (*Cheers.*) They could not without this do justice; but this was not a court of justice. (*Hear, hear.*) They had no right to try in the present instance by a judicial proceeding; for in an impeachment the Queen must have been charged with high crimes and misdemeanours; yet here no crime at all was charged. Therefore, they chose to adopt a legislative proceeding, and then they talked of the rules of law. (*Hear, hear.*) When he had moved for a list of witnesses, he said that he had no objection to witnesses brought from beyond sea, provided there were time and means allowed to inquire into their character, and into the circumstances upon which they gave their testimony. But when witnesses were brought before their Lordships from an immense distance, he must feel it his duty to inquire into whatever suspicions of corruption could arise against them. He could not shut his ears to charges of that nature; and if their Lordships refused to go into the inquiry, they could not expect his vote upon the evidence. While there was a suspicion unremoved from the motives of the witnesses, he could not vote for the Bill, if the evidence of her Majesty's guilt were as clear and positive as possible. If he acted otherwise,

he must renounce the principles on which he acted through life. The Attorney-General had argued that Rastelli had not been sworn at Milan; Counsel did right in taking every objection. But if the objection had been taken that he had not been sworn, stronger evidence could not have been given to the contrary, than that he had been asked whether he would swear to the truth of what he said, that he answered in the affirmative, and kissed the cross. If their Lordships rejected this question, whatever corruption there might have been abroad, they could not go into it. Did they not see that matters came out in evidence which had not been expected? Did any man say that he felt the same confidence in the evidence as before those matters came out. If he should be called on to give his opinion upon the truth of the preamble, he would become the lawyer again—and in course of his life he had had more experience perhaps than any of their Lordships either on the one side or the other of public prosecutions—he would then show what evidence ought to be received and what evidence ought not. Because the witnesses had come from a great distance, and because he found there was much corruption in obtaining evidence, if this question is refused I can go no further. [We regret to say that the indistinctness with which the Noble Lord was heard below the bar made it impossible for us to report his observations with sufficient fulness and accuracy.]

LORD REDESDALE said that the rules of evidence now proposed to be set aside were sanctioned by the experience of ages as the best means of ascertaining truth. If this question should be put in contradiction to those rules, were they not in a manner rejecting the best means of ascertaining truth? A Noble and Learned Lord had said that Reganti was in some way or other connected with this business, but the evidence did not establish any such fact, and there were no particular circumstances which should here warrant a deviation from the ordinary rules of evidence; more especially as those rules had been strictly observed while the case in support of the bill was proceeding.

EARL GREY declared that he was unconvinced by the arguments he had heard in opposition to his motion; but, as the sense of the House appeared to be against it, he did not think it necessary to press it to a division.

The LORD CHANCELLOR wished to say a few words in reference particularly to what had fallen from a Noble and Learned Friend respecting the character of one of the witnesses. The course of a professional life often led to the employment of expressions that ought not to be taken with all the weight usually attached to them: on this account, the character of the witness given on a former day by his Noble and Learned

Friend, while in that of to-day he (the Lord Chancellor) was disposed fully to concur, viz. that his evidence ought to be looked at with jealousy. Its real worth must depend upon the result. As to Bills of Pains and Penalties, he could not but congratulate the house that in the present instance, disregarding in some respects the precedents of former times, it had guided itself by the ordinary rules of evidence prevailing in our courts. With reference to Reganti, it had been said that if he were called, he could not be asked whether he had given a bribe. This was true; but the authority under which he acted might be inquired into, and other circumstances connected with his agency, besides the fact whether what he did fell within the scope of his authority.

The motion of Earl Grey was then withdrawn, and the witness Pomi was recalled.

*POMI re-examined by LORD KING.*

Did Rastelli say to you that De Mont either had received, or was to receive, a large reward for giving evidence against the Queen?

The Attorney-General objected to the question, and no answer was given by the witness. The subsequent question was put by another Peer—

Do you expect to be paid more or less in proportion as your evidence is more or less favourable to the Queen? I have no hope. I only say if they give me any thing I will take it, but I have no hope. (*Laughter.*)

The witness was then ordered to withdraw.

The MARQUIS of LANSDOWN, before another witness was called, wished to learn if his testimony would also relate to Rastelli.

Mr. Brougham replied that it would be in continuance of the same line. He had wished to make himself understood on Saturday, that he was not ready then, nor was he prepared now, to inform the house what conduct her Majesty's law advisers intended to pursue with respect to her defence further than this, that they should at any rate for a certain space follow up the course of inquiry upon which they were now engaged.

The MARQUIS of LANSDOWN added, that his reason for putting this question was, that he intended to submit a motion to the House on the subject of the correspondence of Mr. Powell with Colonel Browne, and for this purpose he begged that her Majesty's counsel would inform him when they had concluded their present course of examination.

Mr. Brougham replied, that they would not omit to do so.

The EARL of CARNARVON wished to know from the Noble Earl opposite, whether any person had been employed by government in Hanover to take depositions; he alluded especially to the testimony of Barbara Kress.

The EARL of LIVERPOOL said that he must answer the question quite off hand, but

as far as his recollection went, the only agent employed by the British government in Hanover had been the British Minister.

[We are not sure that we heard his Lordship correctly.]

**BONFIGLIO POMARTI**, sworn, examined by Mr. WILDE.

Are you clerk to the Advocate Godaci? I am.

Was Godaci concerned as the professional agent of the Princess of Wales? Yea.

Had you at any time any communication with Vilmarcati respecting the papers of the Princess in Godaci's custody? I had.

Did you explain to Vilmarcati your reason for coming to him? Because there was a person who conducted me as far as his door.

Did you state that to Vilmarcati? I did not.

Did you state to Vilmarcati what passed between you and the person who brought you to his door? The moment he saw me he knew me, and told me to bring him the papers belonging to her Royal Highness.

Did he offer you any inducement to bring those papers.

The Solicitor-General interposed. It was his duty to object to this course of inquiry as to any conversation between the witness and Vilmarcati. He apprehended that it could not be evidence with reference to the charges in the preamble of the Bill.

Mr. Brougham remarked, that it might be convenient if the other side would state not only the objection, but the grounds on which they rested it.

The LORD-CHANCELLOR said a few words, as we understood, in concurrence with what had fallen from Mr Brougham.

The Solicitor-General wished to know on what principle of law declarations of Vilmarcati could be made evidence. Suppose Vilmarcati had been engaged either as attorney or as advocate, his conversations could not be used to repel the charges against her Majesty. It seemed his business to wait until he heard the argument on the other side; for all he could do at present was to submit with confidence, that, according to the rules prevailing in our courts, what the witness was called upon to state could not be received. If he were required to go more into detail as to his objection, he professed his inability to do so, as the question put was in opposition to the first principles of the law of evidence.

Mr. Wilde, in support of his question, observed, that he apprehended that it would not be made a question whether Vilmarcati was or was not an agent: on the evidence he stood a known and accredited agent of the Milan commission.

The LORD CHANCELLOR.—Would it not be better to refer to such parts of the

printed evidence as supported that conclusion?

Mr. Wilde was prepared to do so if it were held necessary, but he had concluded that the fact would not be disputed. The testimony of Gargiulo, on p. 181 of the printed minutes, was clear as to the instrumentality of Vilmarcati. The witness was asked—

“Did you see Colonel Browne before you came from Italy to this country?—Yes.

“Were you examined then, just before your departure by Col. Browne? No; Col. Browne examined me last year, in December, as I have said before.

“And a certain lawyer, Vilmarcati, was present, was he not? Yes; Vilmarcati put the questions in the presence of Colonel Browne.

“Were your answers put down in writing? I believe so.

Were you sworn to the truth of them? I subscribed my name at the end of the paper; but I did not swear to it.

“That was in the presence of Col. Browne and Vilmarcati? Yes.

“Have you seen this lawyer, Vilmarcati, since you were examined? No; now that I passed through Milan I have not seen him.

“You have not seen Vilmarcati since you were examined by him in December?—No.

“Did you see any other person on the subject of your testimony, except Colonel Browne and Vilmarcati? No.

“The question refers to the subject of the Princess of Wales? I have seen no other but Vilmarcati and Colonel Browne.”

From the evidence of Di Rollo it also appeared that he was examined before the advocate Vilmarcati. Raggazoni swore to the same effect, on p. 277—

“When you were examined at Milan, was what you said taken down in writing? It was taken in writing.—

“Did you sign it? I did.

“Were you sworn? Yes, I took an oath at Milan.

“Who swore you? The advocate Vilmarcati.

“In what form? He told me, ‘Are you ready to swear upon the truth?’ and I said, ‘Yes, the truth.’

“Were you sworn upon the cross at that time? Yes, I took the oath upon the cross; I took the cross which I carry about me, and I kissed it myself before Vilmarcati.

“Who was present besides Vilmarcati at that time? There were two or three more people who were present, but I do not know who they were; I have given my examination, but I do not know who they were.”

Again, on page 233, the evidence of another.

“Then you went to Milan without know-



ing what you were going for? They had told me that the advocate Vilmarcati wanted to speak to me, but they did not tell me the motive till I reached Milan.

"Did you know Vilmarcati before? I have heard his name mentioned, for he was a friend to a friend of mine, Advocate Marochi; but I never had known him.

"Whom did you see when you got to Milan?—Nobody.

"What person did you see or go before on this question, when you got to Milan? When I reached Milan, they told me the hour at which I ought to call at the house of Vilmarcati; there was this Vilmarcati, two or three other persons, whom I did not know, and two other Milanese, whom I did not know.

"Were those two or three persons whom you did not know English? They told me they were Englishmen, but I did not know them.

"Did you hear the names of them? No, then I did not; afterwards I heard their names.

"Was the name of one of them Colonel Browne? I heard it afterwards, but then I did not know him.

"Was the name of one of the others Mr. Powell? I never heard of him but after five or six months, but at that time I did not know him."

Omitting several intermediate proofs of the activity of this advocate, he called the attention of the House to page 424, where Guggiari was asked,

"Were you examined at Milan? I have been, by Vilmarcati.

"Who took you to Milan? A man by the name of Massaroni, of Lugano, took me to Milan.

"When did you first mention this which you saw in the pantry? I have said it before the advocate Vilmarcati.

"Was that the first time? That was the first time in which I have spoken of what I have seen.

"Are you quite sure you never mentioned any thing of it to any body, until you saw Vilmarcati? He asked me whether I had seen something, and I told him I was always there; and he told me, will you have any difficulty to come and speak to a gentleman; and then this advocate Vilmarcati said, will you have any objection to come with me to Milan; and I told him yes, I have no objection, I will come with you to Milan."

In short, many other and perhaps stronger instances of the same kind of proof were to be found; for nearly all the witnesses had been examined by Vilmarcati at Milan, having been drawn thither by subordinate agents. If, therefore, his conduct was not to be made the subject of inquiry, it was very difficult to say who might be examined. Vilmarcati

and Col. Browne were the most active persons connected with the Milan commission. Upon the latter of these an eulogy had already been pronounced, and it was complained by his friends that a great deal had been stated, and very little proved. Yet, now the proof was offered, it was resisted, and no doubt for very good reasons, though none of them legal. What the counsel for the Queen intended to do was to prove a corrupt application on the part of Vilmarcati, sanctioned as the evidence would probably show by higher authority to obtain possession of the papers of her Majesty. Principals there were none, had been often asserted, and now the House was to be told that there were no agents. If so, who was to be responsible? In any court a defendant would be permitted to show what had been the malpractices of the professional agents in getting up the case against him. The witness was here directed to withdraw, the Solicitor-General observing, that he might understand English.] The same indulgence, or rather the same right, was here claimed for the Queen, who was prepared to show conduct on the part of the gentlemen to whom the witness had referred, such as before any learned judge now sitting on the woolsack would scout a prosecution from our courts: no judge would allow the ears of a jury to be insulted by the evidence of men who had been guilty of such base practices. He wished to show that Vilmarcati had corruptly endeavoured to obtain possession of the papers of the Queen through the clerk of her advocate in Italy. Undoubtedly, many cases might occur in the progress of this trial where the Queen's counsel would be unable to supply every connecting link of agency with some degrading transaction: they might not be able to bring home the fact of bribery in all instances; but the situation of her Majesty would be melancholy indeed, if, when such a detestable conspiracy had been formed against her, and she was provided with evidence to establish its existence, she was not allowed to bring it home to acknowledged agents, because the testimony might be defective in tracing their authority to some undiscovered principal. She might not be able to show always from what pocket the money came, but she could show that it had been employed, and under its influence she was now suffering. This wicked conspiracy had been completed by the vilest corruption, and that corruption had been carried into effect years ago by detestable agents, running from one end of Italy to the other. The Queen had already many disadvantages to contend with—one of them the lapse of time, which prevented detection—but none of them would be so destructive as a supposed rule of law to prevent her from exposing iniquity when she had happily discovered it. It was not necessary in this instance to argue upon



probabilities, because here the fact was undeniable that Vilmarcati was an agent, a most active agent; and if his acts were not to be examined, if the House so decided, the Queen's Counsel must submit, for they had no remedy, no appeal.

Mr. Brougham felt it necessary to say only a few words in addition to the very strong and clear statement of his Learned Friend.

He was not much surprised that those who had been so loath to allow him to speak of principals should now be reluctant to permit him to detect the agents; for if it was enough for the Queen's Counsel to show that they had got hold of an authorized agent, to warrant them in asserting that the principal was bound by his acts. He was not bound to bring home to this agent the authority of Ministers, or of any other person under whom he acted; it was enough to prove that Vilmarcati acted under those who formed the Milan Commission, established for the purpose of hunting the continent for evidence. In whose company was this advocate found? He was always seen co-operating with Col. Browne, the head of the Milan Commission, and indisputably an agent. Mr. Powell, another member of that body, had been looked upon so much as a confidential agent, that he was allowed to keep back information under that pretext. Next came Vilmarcati, upon whom a panegyric might now be expected, as none had been yet pronounced; for it was enough to bring the conduct of an agent in question for the other side immediately to pronounce an eulogium upon him, as had been shrewdly observed by Mr. Wilde. Perhaps, however, it might be wiser if the Attorney and Solicitor-General postponed a little the expression of their admiration. He (Mr. Brougham) wished the solid proof to precede it; and if that were received, it might render needless the empty praise. He was not sure that Vilmarcati was a member of the Milan commission; but certain he was that a witness was never examined without his assistance; and his agency was not to be disputed, unless the other side meant to go the length of contending that there was no Milan commission. Granting that the acts of Vilmarcati could not be examined, because he was professionally and confidentially concerned; still, unless his employer were a principal party, it afforded the agent no legal protection: if it were otherwise, cross-examination would be destroyed, because every witness would shelter himself under the character of an agent to some party or other. Powell and Vilmarcati were precisely on the same footing—they had always hunted in couples, and acted in concert. Whenever a witness, as the old books expressed it, was handled by the one, he was handled by the other; and if he concluded after the handling of the one, he concluded after the handling of the other. It

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would be singular indeed if an attempt were made to reject Vilmarcati altogether, and to show that he was an agent to nobody and for nothing. Yet, if the other side did not go this length, it was clear that the Counsel for the Queen would have a right to examine as to his acts. Another objection had been more than hinted at, when it was said that conversations between Vilmarcati and the witness could not be given in evidence; but the truth was, that the witness was not required to depose as to the words spoken, but as to the fact done; the deed was every thing, and the word nothing. If they were prevented from pursuing this course, he humbly entreated the House—nay, the party most interested in the success of the Bill, whose very all depended upon it—to answer this short question—how was it possible for the Queen to proceed further in her defence?

The Solicitor General, on the other hand, observed, that after the experience he had had of his Learned Friends, he was not at all surprised at the variety of topics they had introduced. He would not at all go out of his way to follow them, but discharge his duty by shortly and amply stating the grounds on which he rested his objections to the testimony offered. Still he must say, on behalf of Mr. Powell, that he was a professional agent in support of the bill; that in that character he had carried on a correspondence with Colonel Browne; and that he was bound, as a professional man and as a gentleman, not to disclose the nature of that correspondence. On this account he had represented the situation in which he was placed, to the house: personally, he had no backwardness in answering any of the questions put to him, but it was his duty to state the objections that operated upon his mind. Whenever questions on evidence arose, the other side pursued a most extraordinary course—nothing would satisfy them but charges of subornation of perjury; and the more serious the accusation, the more vague was the evidence they offered in its support. The rule in our courts of justice was this—that whenever a grave charge was made, the evidence to support it must be strictly legal. Yet, now all legal forms, all rules of evidence, were to be overthrown, to establish the supposed enormous criminality of some individual. According to his apprehension, no act even of the Milan commissioners themselves could be given in evidence in the course of the inquiry, except it related to a particular witness examined at the bar; and a different course would lead to endless collateral inquiries, and irrelevant charges. It was not necessary now to contend to that extent, the question being confined solely to the acts of the Advocate Vilmarcati. It had been laid down, and most properly, that the acts of an agent, when acting within the scope of his authority, might

be made use of against his principal; and, applying that rule, what was the situation of Vilmarcati? According to all the evidence, he was nothing more than a person employed by the Milan commissioners to receive and take down the evidence. Did the other side pretend to say that what they were about to prove came within the scope of his authority. If so, another question arose, whether they were in a condition to go further, and attack any individuals but those examined at your bar. A great deal had been said about bribes; whether offered by the Milan Commissioners, Vilmarcati, or any others, it might be legitimate evidence if they applied it to the witnesses already examined; but if the Counsel for the Queen were not prepared to prove that, they could be allowed to prove nothing. Without, therefore, going into the general question, which was much more important, he rested his objection to the line of examination commenced upon this—that what was imputed to Vilmarcati was not within the scope of the authority with which he was invested by the Milan Commission, and, if it were not the act of the agent, could not affect or bind the principal.

As soon as the Solicitor-General had concluded, the Lord-Chancellor adjourned the House, without coming to any decision. It was a quarter past four when their Lordships separated.

### House of Lords,

TUESDAY, OCT. 17, 1820.

The Lord-Chancellor took his seat at ten o'clock, after which prayers were read, and the House called over.

A gentleman from the Treasury presented an account of the revenue from the 10th of October, 1819, to the 10th of October, 1820: and an account of the expenses of the proceedings carried on against the Queen, in so far as the same could be made up.

The LORD-CHANCELLOR stated, that a question which had been yesterday put by the counsel on behalf of the Queen had been objected to by the counsel for the bill. The question might be represented to their Lordships—at least he thought it a convenient mode of conveying to their Lordships' minds to state it thus:—whether a certain person of the name of Vilmarcati, in order to induce other persons to come forward as witnesses, or to furnish testimony against the party accused by the bill, had not offered a corrupt inducement for that purpose? An objection was very properly taken by the Learned Counsel for the bill, which objection was answered by the Counsel on the other side, and it became the business of their Lordships to determine if that question could or could not be put. For his own part he

must say, that the case of Vilmarcati might differ much from those cases which had been before argued, and which the House had ruled that the acts of agency were not so proved as they ought in any manner to affect the case. In stating his opinion upon the immediate question to their Lordships, he should be extremely sorry to assume that which had been offered by the Learned Counsel who raised the objection—namely, that Vilmarcati being only the counsel or professional agent to the Milan commission, his acts could in no wise affect the proceedings of that commission. He should be extremely sorry to conclude upon so narrow a view of the case. Looking at the evidence, he conceived that there was sufficient proof apparent that Vilmarcati was, in fact, an agent of the Milan commission; for if there was no absolute proof of his being an agent he could not say that there was not proof to make him be considered as such. Upon this understanding of the case, he wished to have the opinion of the Learned Judges, and he would therefore propose a question for their decision—one which he conceived to be absolutely necessary for his own and their Lordships' guidance—that they should know what would be the law and the course of proceeding upon a similar case in the courts below, taking the case to be one which had already proved Vilmarcati to be an agent of the Milan commission; and considering the fact that he had not been called or examined, and assuming what need not be questioned, that he had offered temptations to witnesses to appear: supposing also that no proof could be made out that any of the witnesses who had been examined for the prosecution had been corrupted, in such a case could evidence be admitted to show that any attempt had been made to corrupt the witnesses who appeared for the defence? His question would be, if, in the trial of a civil action or a criminal indictment, evidence had been given on the cross-examination of the witnesses examined in chief for the plaintiff in the civil action, or in support of the charges of the indictment, from which it was to be inferred that A. B. had been employed to collect witnesses for the plaintiff or the prosecution, and if the defendant in a civil action, or under indictment, offered proof that A. B. had gone about to induce C. D. to give corrupt testimony in support of the civil action or criminal charges—no witness called as a witness in chief for the indictment, or the civil action, having, under cross-examination, given any proof of A. B.'s corrupt agency—would the practice of the courts below allow C. D., a witness called for the defence, to give proof that A. B. had offered corrupt motives to induce him to give false testimony in support of the civil suit or the criminal charges, there being no proof that A. B. had been authorized by his principal to make offers?

The Noble and Learned Lord concluded by moving that this question be referred to the judges.

EARL GREY, before their Lordships came to a decision on this question, wished to say a few words. If the Noble and Learned Lord wished to propose the question to the Learned Judges merely for his own satisfaction, he should on that ground not object to it. But he must declare he was of opinion, that, even if the Judges did decide that, according to the rules of evidence in the courts below, the examination proposed by the Queen's counsel could not be allowed, their Lordships were not bound to act on that decision. On the contrary, he would contend that, in consequence of the knowledge of facts which had come to them from the bar, they were bound to inquire into the truth of the allegations. He was, however not much disposed to oppose the proposition of the Noble and Learned Lord, because, whatever might be the answer given by the Learned Judges, he should propose to their Lordships to proceed in the course of inquiry which was now suspended. The present point of inquiry was nothing more nor less than a continuation of the case of Rastelli; into that case their Lordships had consented to inquire; but the evidence in that case was improperly admitted, if the rule was to be, that agency could be proved, they were not to receive evidence of corruption. If the rule, however, of receiving the evidence of yesterday applied to that of to-day, the examination proposed on the part of the defence ought to be allowed. Though it was found from the evidence that Rastelli had been constantly employed in collecting witnesses, yet it was not proved that he had been authorised to make them offers. In like manner, with regard to Vilmarecati, it appeared he assisted officially in taking down depositions, but *non constat* that out of the room in which the depositions were taken he had been on any occasion, authorized to do any act. If, therefore, the strict rule of evidence was to be adhered to, the cases were substantially the same. He must also contend, that the rules of courts of law, with respect to evidence in civil actions, were not at all applicable to this case. Their Lordships were not sitting as judges, and the case was of the nature of a criminal prosecution. How, then, the Noble and Learned Lord could propose to limit his question to the rules of evidence in civil actions, was what he could not understand. The present was, in every respect a criminal proceeding; and what was done in the courts below with respect to civil actions, could have no relation whatever to the case. If, however, a question were to be put, he should wish it to be framed on the supposition of a prosecution for a capital offence, for nothing else could have any analogy to the case. If

any one, in answer, said that this was not a trial for life, he would ask whether the illustrious person who was the object of this Bill was not exposed by it to losses greater than life? The question, then, which he would propose to ask, if any were put, would be whether, in a capital case, if evidence were tendered to a judge of an attempt to corrupt witnesses, whose evidence if received, would be fatal to the person accused, that judge would not think it necessary to relieve the case from all suspicion, and to ascertain by what means that evidence had been procured on which he was to pronounce judgment of death? The question was immaterial whether agency was proved or not. The counsel for the defence proposed to prove that an attempt had been made to corrupt justice, in order to obtain a decision from their Lordships, the attempt of which would be to deprive her Majesty of that rank, station, and dignity, and those privileges, which to any individual in her situation must be dearer than life. He thought, therefore, that their Lordships, without reference to the Judges, ought to decide that the examination should proceed. Having already received similar evidence, were they now to turn round, and alter the rule they had made? What was now proposed was not the introduction of a new rule, but of one which had been followed after all the evidence on one side of the case had been heard. What was the necessity of inquiring into the practice of the courts below? If, either on the prosecution or the defence, a case arose in which corruption was alleged, and an attempt to impose false evidence upon their Lordships, they were bound to inquire into the facts, unless they were disposed to shut their eyes to every thing which might prove the proceedings into which they had been drawn to be the result of a foul and wicked conspiracy to deprive the illustrious individual who was accused before them of all those possessions which were to her far more valuable than existence. For these reasons he must again say, that he saw no grounds for referring the question to the judges, and was of opinion that the testimony which had been offered ought to have been received yesterday. At any rate he could not regard what passed in courts of law on civil actions as having any reference to the evidence offered; for he considered this as a criminal proceeding of the highest kind. When, in the trial of such a case, evidence was offered that an attempt had been made to corrupt justice, and to bring to their Lordships' bar false testimony, whether that attempt was attributed to an agent or any other person, he trusted their Lordships would not turn their backs on that inquiry which was necessary to detect such iniquity. If that should be their conduct, they would not appear to the public to be doing that justice which was expected from them.

The EARL of LIVERPOOL wished to say a few words in consequence of what had fallen from the Noble Lord opposite. In the first place, as to the objection to confining the question to be proposed to the judges to the practice of the courts in civil actions, he believed that his Noble and Learned Friend would have no objection to strike those words out, and to let the question go to the judges without any limitation. With regard to the general argument of the Noble Lord, he thought the view taken by him was altogether founded in mistake. He did not know what the opinion of the Learned Judges might be, and would therefore postpone the expression of his own opinion till after it had been submitted to their decision, if the house should think proper to take such a course. But he understood the argument of the Noble Earl to be founded on this question—whether or not it was fit, in this stage of the proceedings, that their Lordships should go into an inquiry on a charge of general corruption, which had no immediate application to the case now before them, which could have no relation to the business under consideration, and no effect on the ultimate issue. The Noble Lord had said that he considered this to be a criminal prosecution, and for a capital offence. He had no objection to take the question on this ground, and consider the present to be a criminal prosecution, and for a capital offence (for the punishment that might be inflicted did not affect the law of the case), and still he would contend that the Noble Earl was mistaken in his view of the business. But it was asked, if a subornation of witnesses to appear in this cause can be proved, if it can be shown that any witnesses have been corrupted, or attempted to be corrupted, ought not this to be inquired into? He would admit, that if it should appear that any of the witnesses produced at their Lordships' bar had been corrupted, or attempted to be corrupted, or if any witness could be found to have been engaged in corrupting—in such a case he conceived (giving his opinion as an unprofessional man) their Lordships ought to receive the evidence. But the question was here, not whether evidence should be received of an attempt made to corrupt witnesses who had appeared at the bar; but whether evidence could be received of attempts made to corrupt persons who had not been brought forward as witnesses? He desired that no man suppose that he meant to argue that it was not as bad to endeavour to corrupt those who had not been brought forward as witnesses, as it were to suborn those who had actually been before the House. In his opinion, to attempt corruption in the one instance, was just as iniquitous as in the other; but what he contended for was, that in the latter case they had nothing to do with it at this time, and ought not to

be called upon to go into an irrelevant inquiry, which he did not see could have any effect on the present proceedings. He would now apply himself to another part of the question, stating what he had to say very shortly, and merely throwing it out for their Lordships' consideration in the absence of the Judges, if they should go out on the question now proposed to be submitted to them. He would put it to them, whether they ought to go into an inquiry respecting the conduct of the persons engaged at Milan, without giving some sort of notice to the advocate Vilmarcati, and Colonel Browne, that they might at least have an opportunity of being here to defend themselves? He would go further, and ask if this were not done, supposing the Learned Judges should give it as their opinion that the evidence which had been tendered could be received, would their Lordships feel themselves justified in receiving it, without admitting at the same time, evidence of every thing that went to affect the conduct of those who had formed the Milan commission? He considered the admission of all the evidence that might be offered on this subject, to be the necessary consequence of receiving that which was now tendered, and therefore he wished the House to consider well what would be the effect of their pursuing the line of conduct now recommended to their adoption. He had already stated that he had not the least objection to the gentlemen who had formed the Milan Commission being examined respecting all they had done, and he was content that the advocate Vilmarcati should, if they pleased, appear at their Lordships' bar. All he had to say against receiving the evidence in question was this, that it would lead the House into an inquiry that he could not regard as relevant to the matter now at issue. If the Judges should be of opinion that the evidence might be received, he considered that justice would require that they should hear what the parties accused could offer in their defence.

LORD ERSKINE concurred in opinion with Earl Grey, and spoke at some length, but in a tone of voice which was not distinctly heard below the bar. The evidence, he thought, ought to be received or rejected by their Lordships' decision. He had not altered the opinion which he gave on the subject yesterday. Having considered the matter still further, and called to his recollection his practice at the bar in early life, he felt convinced with his Noble Friend (Earl Grey) that the examination of the witness ought to be allowed without any question being put to the Judges. He thought it strange, that after the admission had been made that the House were bound by no technical rules, but were to attain the truth and administer substantial justice, the admission of this testimony should be opposed; and in that anomalous proceed-



ing all the disadvantages were still thrust upon the Queen, and none of the advantages accorded to her. Notwithstanding that admission, and the admission reluctantly made, that nothing could make amends to the illustrious accused for the absence of a material witness, it was not only wished to fasten them down to the rules of law, but to rules of law totally inapplicable to the present case. He would suppose a criminal indictment preferred against persons for suborning witnesses against the Queen. Were he counsel for the prosecution, he would first prove the existence of the conspiracy, and then endeavour to bring it home to the parties, by witnesses who would prove the acts of the agent. In the case of the State Trials of 1794, this was the mode in which his Noble and Learned Friend proceeded. A conspiracy to dethrone the King was first attempted to be proved, and then to prove the agents. In the trial of Hardy, the defendant objected that none of the acts proved were made to connect with him; and the Learned Judge who presided had said, that the charge was of two parts, and the prosecutor might first prove the existence of the conspiracy, and then bring it home to the parties as well as he could. In like manner, the Learned Counsel might bring proof of a conspiracy against her Majesty. He might bring it home first to Vilmarcati, he to Colonel Browne, and Colonel Browne to the actual prosecutor. If there had been a conspiracy on foot, no matter by whom, it was the duty of their Lordships to sift it to the bottom, to prove the acts of the agents, and thus trace it to its source. The attempt of Rastelli to corrupt witnesses was unexampled in the history of jurisprudence; and were their Lordships, with the knowledge of this fact, to suffer the matter to rest here? If the Counsel for her Majesty proved various acts of subornation of witnesses, how were their Lordships to know whether the witnesses already examined had not been procured by these means? He did think they had been suborned, because no person deviates from the truth without some sinister motive; and when their Lordships found witnesses declaring on oath what was notoriously and wickedly false, ought they not to be particularly cautious in the evidence they admitted to weigh on their minds? If their Lordships divested themselves of the right to probe and examine into the alleged conspiracy, they might undoubtedly do so; but no man who was not a fit inhabitant of Bedlam would say, that, if the evidence were gone into, they were not competent to judge of the probability or improbability of the charge; if they were not, they ought to retire from the situations which they now filled. It was the duty of the Counsel for the defence to bring forward evidence to prove this conspiracy; and it was no less the duty of their Lord-

ships, as he conceived, to hear that evidence and decide upon it. If it was proved that an agent of the Milan commission offered to bribe a single person to give evidence against the Queen, this single proof of the conspiracy tainted the whole evidence; for, although there might be some witnesses who could not be proved to have been thus bribed, yet it threw a suspicion upon the whole. He would appeal to the Noble Earl opposite, if he had known, before the commencement of this unfortunate business, what he knows now, if he would have gone into the prosecution? He felt perfectly convinced that he would not. Their Lordships were not to confine themselves to the rules of a court of justice, for no court of justice ever had to decide on such a cause. He entreated their Lordships to permit the Counsel to trace the conspiracy to its source; for of the existence of a conspiracy no one could doubt. Their Lordships would thus best discharge their duty to the sound principles of justice, to their own character, and to that posterity by which their conduct would hereafter be judged.

The EARL of LAUDERDALE said, the question appeared to him to be, whether the house would abide by the rules of evidence of the courts of law or not. If the excellence of those rules were admitted in the courts below, he desired to know why they were not applicable to the highest as well as the lowest court of judicature. The doubt on his mind was, that the evidence (and he had carefully looked it over) only applied to Vilmarcati, as the agent of the Milan commission, in 1820; when it appeared from the evidence of Mr. Powell, that the Milan commission was *functus officio* in 1819. How, then could it be revived in 1820? From the evidence of one with whom Vilmarcati conversed, it appeared that at the time of the conversation he might be considered as the agent of Colonel Browne. On these grounds he was for referring it to the Judges for their opinion, by which opinion, until his Noble and Learned Friend could convince him that the established rules of evidence observed in the courts below were not the best calculated for the discovery of truth, he should, although as a member of that house he did not think himself at all times bound by such decisions, feel a disposition to regulate his judgment on this question.

The EARL of ROSSLYN felt great diffidence in rising to address their Lordships on this question, after the able manner in which it had been discussed by his Noble and Learned Friend near him, and his Noble Friend below him (Earl Grey). His Noble Friend who had just sat down was, however, of a different opinion. He was of opinion that their Lordships ought to be bound by the rules of evidence in the courts below, because



the experience of ages had shown that they were in general best calculated for the discovery of truth. He admitted the fact, and he admitted the ground on which his Noble Friend had placed his argument. He was of opinion that the rules of the courts below were the best that could be invented for regulating proceedings between two parties, and these parties, too, fairly opposed to each other. He could not but feel the necessity for not permitting any deviation from the rules of the courts in such cases, on account of any hardship which any of the parties might suffer, because the benefit which one individual might gain by taking advantage of the rule of law, or the injury which another might sustain, was not to be put in competition with the public interest in the regular and uniform administration of justice. The rules, however, might differ, and did considerably differ in civil and criminal cases. The great object in both was the ascertaining of truth; but in criminal cases the principle of protecting the defendant was carried farther than in civil actions; for the judge was not only held to be impartial, but, by a species of humane fiction of the law, was considered as counsel for the accused. In the present case there was no party except on one side, and certainly none that could suffer by any deviation from the ordinary rules. What were their Lordships now doing? They were not trying Col. Browne or M. Vilmarcati—they were not trying any ordinary case that fell within the known limits of established law: but they were considering how they could punish without law—they were deliberating on a measure, the penalties of which were to be applied to acts for which the individual charged, with them was not amenable to any law previously existing; for it had been allowed on all hands, even by those who brought forward the Bill, that if the illustrious individual who was its object, were tried by any of the laws which were supposed to apply to her offence, it would be impossible to find her guilty. On this ground, which was the foundation of the Bill, its patrons had called on its opposers to show why it should not pass into a law. The opposing party had then doubtless a right to show that the allegations on which the Bill was founded were false—to show that the facts were false, the testimony corrupt, and the whole grounds of the Bill unsound and fallacious. In the case of this being shown, the dignity and character of the illustrious party would be preserved; because, on showing that the charges were founded in falsehood, their Lordships would not pass the Bill: for the whole proceeding was a measure of expediency; and surely there was no man in that House who would say, that without any proof of guilt it would be expedient to oppress. But who was the other party in the Bill? That party was said to be the state. It was said to be expedient for the interests

of the state that an individual committing certain acts should be degraded from her rank in the state; although by those acts she had violated no law by which degradation was declared to be the punishment attending them. Their Lordships had adopted the part of the state in this case, by ordering the Bill to be proceeded in, and by commanding the Attorney-General to appear for the purpose of opening the case for the bill, and of bringing forth the proofs in support of that case. They were now deliberating on the question whether they would exercise their legislative functions in this way; but it also now became a question for their consideration, whether a conspiracy had not been entered into to deceive them by false evidence? (*Hear.*) He did not charge the conspiracy against the prosecutor; he did not charge it against the party to the bill; he did not charge it against the Milan commission; nor was he bound to prove the connexion of any of those parties with it.—But what he would say was this—Do not pass this Bill until you ascertain whether, and how far you have been misled. It was sufficient to induce them to go into the proposed examination that there appeared reason to suspect the existence of a conspiracy. It was not necessary that it should be got up by agents of this country: it might be the work of foreign powers. But it mattered not by whom it was hatched. This might eventually appear to be a conspiracy, in which both foreign as well as British agents were employed; but how was this conspiracy to be got at, unless the whole of the agents employed were known, as well as the parties for which they were to be considered as responsible? A notable argument had indeed been used—namely, that they ought to confine their inquiries, as to the abettors of corruption, if any there were, to the witnesses who had been examined at their Lordships' Bar. In reply to this argument he should say, that these were exactly not the persons to whom they ought to confine their inquiry respecting the imputed corruption; for the persons sed and nurtured at the pampered board of corruption were not likely in person to come forward, and run the risk of detection: on the contrary, they were most probably engaged in the underhand machinations of a system to promote, through the means of others, the main object of their activity. It was not likely that the corrupt agents themselves would run the risk of being stopped in the cause; nor indeed, if they did come forward in person, could it well be expected that they who had sworn falsely, and been suborners of perjury elsewhere, would speak the truth for their own detection, when they appeared as witnesses in the cause. It was, he thought, obviously impossible to bring to light the acts of such men, except by the failure of some of their efforts to corrupt individuals, which individuals might

afterwards confront those who attempted to suborn them. The inquiry into these facts had, he thought become imperative, not indeed for the parties in this cause, but for the honour and dignity of that House.—(*Hear.*)—Would their Lordships not think it a direct attack and gross outrage upon their privileges if it were discovered that any of the agents employed in a Bill legislatively and judicially before them should have dared to prop up that Bill by the production of tainted evidence, or by an attempt to obtain it? The House was bound to dispose of the Bill according to the evidence adduced by the promoters of it; but was it nothing to ascertain in what manner that evidence had been collected? Was it nothing to show that the fountain from which it was drawn was corrupted, and that truth could not flow from such a source? Was it nothing to show this from those who had refused the proffered bribe, and who declared the agent that tendered it? Did any body, in point of fact, doubt the agency of Vilmarcati in this cause? Nobody could now doubt the agency of either Colonel Browne or Mr. Powell; for the latter, by his refusal to give the letter of the former, clearly established the direct agency of both. If, with these palpable facts before their Lordships, with these proceedings of agents so long engaged in collecting testimony, they should deem it right to reject, in the present stage of their proceedings, the only inquiry which could make their future progress safe, then indeed he should be obliged to confess that he saw no safety for the administration of justice there—that he saw no hope of the salutary protection of the community, no safeguard against the recurrence of dark and dubious means to entrap testimony destined to sap the foundation of justice. (*Hear, hear.*) Where was this protection to be found, if parties were, among themselves, to be permitted for two years to originate this cause in a foreign country, to corrupt and suborn witnesses, to transmit written depositions, and have them sworn to, before the parties making them were brought before the proper legal authorities; and then to be considered as irresponsible, as men whose acts were altogether to be deemed alien from the inquiry? Were their Lordships to be shut from the knowledge of such facts at the moment when they were called upon to act upon the evidence so impugned? Were they to turn their eyes from the offer to prove the polluted source from which such evidence came? The moment they so decided, in vain would they shelter themselves under the expediency of acting by rules: they would at once appear to the public, not as honest and unbiassed judges, but as parties in the charge of corruption in which the agents were involved, and for a purpose injurious to the interests of that public, and disgracing the functions

with which they were intrusted for the administration of justice. (*Hear.*)

LORD MANNERS said, that the plain question before the house was, whether there was any thing in the point now before them which ought to make it an exception to the general rule upon which they had hitherto acted? The first consideration to which they ought to look was the reason of the rule itself, and the importance of its operation. It had been always held that a principal must necessarily avow the acts of his authorized agent; it was, therefore, of extreme importance, considering that responsibility, that the agency should be clearly established. In this case it appeared that commissioners were employed to collect evidence for the prosecution. It was, he thought, clear, that such commissioners were to be held responsible, and that the principals must also avow that responsibility; but the acts or declarations of unauthorized persons could not be so construed, and for the most obvious and conclusive reasons—namely, that, if the rule of evidence were to be opened so wide, there would be an end to the due administration of justice; for then an unprincipled fellow could at any time be found to stop a cause, by doing that which he knew must so obstruct it, though he had no authority whatever from the prosecutor to interfere in the case. Any cause could at any time be so disqualified, and the ends of justice altogether defeated. He was decidedly of opinion that the question ought to be put for the consideration of the Judges. (*Haar.*)

The EARL of DONOUGHMORE begged that all who concurred in putting the question should not be understood as avowing the sentiments, or approving the acts, of the agents or the Milan commission. That was a grave subject of inquiry, which ought to be discussed when the proper time (which the present was not) arrived for the purpose. He cordially concurred in the propriety of putting this question to the Judges; for he thought, whenever a doubt arose, they should have the assistance of those learned personages to guide them upon points of law in their proceedings. He thought it at the same time most material that they should throw the door wide open for ascertaining the credit of the witnesses; but still to take care that they admitted nothing contrary to the rules of evidence. If they were any ground for involving in a charge of conspiracy either the Milan commission or its agents, the time would come when that investigation could be fully entered upon; and he was confident that, whatever should be the result, his Majesty's government would stand as free from imputation as they had been throughout these proceedings in Parliament. Ministers had avowed that the solicitor for the treasury was the official agent for the prosecution; there was, then, an

end of the question about the prosecutor, respecting whom so much had been said both in prose and in verse by certain learned persons, who might have spared their energies upon such a topic. (*A laugh.*)

EARL GROSVENOR could not concur with the Noble Earl who spoke last, that this was not the time to enter upon the inquiry into the manner in which the evidence for this Bill had been procured. What time was more appropriate than this, when they were called upon to consider the efficacy of that evidence? or, were they to be told that they were to go on and act upon evidence which hereafter they might be compelled to discredit? (*Hear.*) With respect to the Bill itself, he had long since shown by his vote the sense he entertained of the propriety of proceeding with it. However, when the evidence produced in its support became of such a suspicious character, he thought they were bound by a proper inquiry to set all suspicions, if possible, at rest. He did think that this imputed conduct of Vilmarcati ought, more than any thing else, to be now inquired into; for that person's name and direct agency would be found in the minutes of each day's proceedings upon the Bill. The Noble Earl opposite (Liverpool) had too much manliness, he was sure, to deny the agency of Vilmarcati, and more particularly since Rastelli's case had thrown doubts upon the manner in which the witnesses had been collected. All they knew now respecting Rastelli was, that strong suspicions attached to his share of the business. That he had offered money was directly alleged; and that he might have been sent out of the way to screen himself from the consequences of such detection was by no means impossible, though he (Earl Grosvenor) did not mean to assert that such was the fact. If the case had been conducted by English witnesses, then there would be no difficulty in ascertaining the respective share of each; but here, when mixed up with the agency of foreigners, the discovery became more perplexed and difficult. He still thought a short bill, now that the other House of Parliament was about to sit, might be brought in, compelling the residence here of the witnesses until the case was terminated; otherwise he saw no prospect of rendering them responsible for their evidence, particularly after what had occurred in Rastelli's case.

LORD REDESDALE said the question here was, whether a question should be put to the judges for the purpose of assisting the House in deciding upon the admissibility of the evidence of a particular witness? With this question he was of opinion all the arguments of Noble Lords on the subject of agency had nothing to do. The sole question was, merely, whether the House would see the propriety of ascertaining upon a particular point the usage of the courts below,

and then determine upon adopting a rule, found by experience to be conducive to the ends of justice, and the operation of which was sanctioned by the wisdom of ages? If the House should, without serious and ample consideration, disregard the rule of practice in the ordinary courts of justice, then he must say they would be adopting a course, which, instead of permanently maintaining the established bulwarks of the administration of justice, would be substituting in its stead the fluctuating and perhaps capricious will and pleasure of the moment—a decision which would indeed leave no safeguard for the honour and life of any individual. He preferred to abide by the rule of law, as invariably administered according to the wisdom and experience of the learned judges.

The LORD-CHANCELLOR said he would shortly trouble their Lordships by stating the grounds upon which he thought this question ought to be submitted to the Learned Judges. The House had been now between 30 and 40 days engaged in the present proceeding, and up to this time, by common consent, they had agreed to abide by the rules of evidence, as administered in the courts below: if these rules had not their foundation in the principles of truth and justice, then the sooner they were shaken off the better. It became, then, important that they should satisfy themselves whether they had better maintain their consistency by still adhering to the rules in the courts below, or whether they could venture to strike out into a new path and make rules for themselves of a different character. If, upon full consideration, they thought the safer course would be to adhere to those rules which were for ages deemed the best calculated for the administration of justice, then he thought it, for their satisfaction, material that they should ascertain from the proper authorities what was the rule of practice as applicable to the present point. A great deal had been said respecting bills of pains and penalties, which was quite irrelevant with the point at issue here; upon that subject, therefore, he should only remark, that, if they did not observe the rules of evidence in such bills, they might hereafter be entitled to the character now given of them by some persons. As to the imputations so unsparingly cast upon some of the witnesses, he should merely say, that every witness who had appeared at their Lordships' bar was entitled to be considered as a person against whom no act of corruption had been proved, so as to impeach his character. He spoke this in a legal and just sense, though he was ready to admit that some of the testimony adduced well deserved scrupulous examination before their Lordships decided upon giving it implicit credit; but even that which seemed to require such scrupulous examination might eventually be

proved true, and set right before the case was entirely closed. If that should eventually prove the case, would not that witness who was so set right have just reason to complain of the aspersions which were previously levelled at his character? In the present case, it was because he had a serious doubt that he pressed the question for the opinion of the judges, as to the rule which obtained in the practice of the courts below. The Noble and Learned Lord concluded by repeating the question which early in the day he had read to the House, and expressing his readiness to yield to the suggestion of the Noble Earl (Grey,) and omit the words "civil action," and substitute for them "capital offence." In preparing a question of this kind words of supererogation often technically crept in.

The MARQUIS of LANSDOWN said it was with considerable reluctance that he rose to offer a very few observations on the question now before their Lordships. The point as to whether the Queen's means of defence had not been already materially impaired was altogether different from that on which it was now proposed to take the opinion of the Learned Judges. The great object of inquiry was to ascertain the extent to which the practices of certain agents had been carried in this business. It had been said they ought not to launch into an inquiry in which they might be duped, and that they ought not to raise a fictitious agency, through which corrupt practices might be traced to the one side as well as to the other. There was, undoubtedly, at present, no full and confirmed proof of the authorized agency of Reganti; but it was impossible to suppose but that the advocate Vilmarcati, acting at Milan, confiding in Powell and Browne, making accurate reports of all that passed before him, could have been a corrupt agent of the Queen. He himself had no objection whatever to inquire into the conduct of Vilmarcati, if such an inquiry should be judged desirable or expedient. A Noble and Learned Lord had contended that the house having always adhered in practice throughout these proceedings to certain rules of evidence, it might be productive of the greatest inconvenience if they now departed from them, important as the occasion was. He heard such a remark with the utmost astonishment, for, according to his recollection, their Lordships had not throughout adhered to those rules. (*Hear, hear.*) They had not so adhered in cases perfectly analogous to the present, and in which, after the Judges had declared that a particular question could not be put conformably to the rules of evidence observed in courts below, their Lordships had decided that the question should be put. If they turned to page 455 of the printed minutes of evidence, where a witness was re-examined by the Attorney-General,

relative to conversations he had held with M. Marietti, her Majesty's counsel objected, and the opinion of the Judges was taken. It was delivered in one of those clear and valuable statements so well calculated to throw light on the whole subject, which their Lordships had had the good fortune to receive from them on more than one important question since the commencement of these proceedings. These learned persons were of opinion that new matter could not be introduced on a re-examination, although touching the motives by which the witness had been actuated in giving his evidence. (Here the noble Marquis, at the desire of Lord Redesdale read the opinion of the Judges at length.) Their Lordships, however, for no other reason than that they conceived suspicion did attach where there was no proof that an undue influence had been exercised over the witness with respect to his future testimony, in the apprehension that there might have been an interference by an authorized agent of the Queen, thought proper to extend the comparatively narrow rules adopted in the Courts below. (*Hear, hear.*) It was upon this general ground, and upon any other suggested by Counsel at the bar, that, if allowed to pursue their examination, they could prove the existence of a conspiracy, that he thought the same course should be adopted on this occasion. If such evidence was at all admissible on any occasion, it ought to be received immediately. It never could hereafter be received with any good effect. Good God! was it possible that whilst they were proceeding to depose a Queen, with a suspicion hanging over the facts upon which their proceedings were founded, they were to be satisfied with being told that they might inquire into them afterwards? (*Hear, hear.*) He had heard of an Earl of Warwick, who was a great puller-down and setter-up of Kings; he trusted their Lordships had no inclination to act in the same capacity with regard to Queens. After having pronounced their judgment against her, would they then deem the time to have at length arrived for ascertaining whether a conspiracy had been formed against her? His Majesty might have married again before this inquiry was concluded (and as the Bill now stood he was enabled to do so the moment it passed); and if its result should be to discover that a corrupt conspiracy had been organized against the present Queen, what was then to be done? It would be but a poor reparation to make to their Sovereign who had been injured, to her Majesty who had been deposed, and to the country which had been deluded, that they must then proceed to divorce the King from his new wife, and set up their former Queen. (*Hear.*) The real substantial question before them now was—ought the Queen of England to be deposed? (*Hear, hear.*) He



did not think that, as far as respected the Milan Commission, every person acting in which formed a part of the system of agency under consideration, they were bound to hear whatever evidence was tendered as to the practices which it adopted or sanctioned. Whether such evidence should be allowed to remain afterwards upon their minutes was a separate question, and one which they would have the opportunity of discussing. Their Lordships had now to consider whether, if in any case the ordinary rules of evidence ought to be extended, they ought not to be extended in this instance? It could hardly be said that they were establishing another dangerous precedent by this deviation; the case was altogether singular; there was no probability of its recurrence. Upon these grounds he felt satisfied that the Learned Counsel for her Majesty ought to be permitted to continue his examination.

The LORD-CHANCELLOR said he had prepared a new form of putting the question to the Learned Judges, which, with the permission of their Lordships, he would read.

After some conversation, it was agreed to refer two questions; they were in substance as implied by the preceding argument:—whether in courts of ordinary judicature, evidence can be received of corrupt practices, of bribery and subornation of perjury, in a cause under trial, by any agent, without previously establishing in proof the fact of his agency?

The Judges then retired.

After an hour's absence, the Judges returned to the House.

Lord Chief-Justice ABBOTT stated, that the Judges had conferred together on the questions propounded to them; but, in consequence of their great importance, they required farther time, until to-morrow, before they delivered their opinion.

The LORD-CHANCELLOR.—The Judges, having returned, state that they wish for further time to consider these questions; and therefore desire that your Lordships will allow them to give their opinion to-morrow. I move, in consequence, that this House do now adjourn.

The EARL of CARNARVON did not conceive that their Lordships could be more unprofitably employed than sitting in that place discussing technical questions; because it appeared to him that the point of law which had been so much debated had no connexion whatever with the point of duty, on which they would ultimately be called to decide for themselves. Whether this alleged conspiracy be proved or be not proved, the real question for their Lordships' decision must be, whether they would yield to the demand of the ministers, first to give them the human sacrifice for which they thirsted, (*Hear,*) and, when they had immolated the victim, to proceed to inquire by what foul crimes, by what wicked artifices, that vic-

tim had been dragged to the altar? (*Hear.*)

This was the most extraordinary proposition that a minister of the crown had ever assumed the right of submitting to their Lordships; but still it was the true question now before them. Their Lordships might do well to amuse themselves by putting questions to the Judges, but it was impossible for them to get rid of the question which he had stated; therefore, he thought they had better at once meet that question boldly and manfully. (*Hear, Hear*) But if they thought proper to wait for a decision on this point of law, which, he repeated, was wholly irrelevant to the point of duty, it would seem as if they were afraid of the great question. He would not apologise for this short appeal, which, to some, might appear to be a waste of time, because he was convinced that they could not waste their time worse than by pursuing the line of proceeding which they had adopted.

LORD ERSKINE rose for the purpose of proposing that another question should be referred to the Judges, with the view of ascertaining whether evidence like that on which their Lordships had been debating, and on the propriety of receiving which no decision had yet taken place, might not, under particular circumstances, be legalized, and rendered admissible. Although the question put to the Learned Judges might be by them decided in the affirmative, he would assume that a negative decision had taken place, and under that supposition he would put the following question:—"Supposing, according to the rule of law, evidence of a conspiracy, by suborned witnesses, to support any prosecution, ought not to be admitted, except such as applies to the prosecutor or the agents employed by him, whether general evidence of such conspiracy will not, nevertheless, in the first instance, be received, as a preliminary step to connect the prosecutor himself, or any agent employed by him, with the conspiracy?" and whether, by the same rule, evidence should not be received from the defendant, he seeking to establish the existence of a conspiracy to suborn evidence against him? His Lordship moved "that this question be referred to the Judges."

The LORD-CHANCELLOR said, though he did not see how the question bore on the proposition in dispute, yet the same principle which yesterday led him to state, that if any Noble Lord wished to have the opinion of the Judges, he should feel obliged to him for demanding it, and that he would look with deference to the opinion of those Learned Persons, whatever his own might chance to be, now led him to think that the question of his Noble and Learned Friend ought to be put.

The question was then referred to the Judges, and at half-past two o'clock the House adjourned.



**House of Commons,**

TUESDAY, OCT. 17. 1820.

This day the House met pursuant to the notice of adjournment of the 18th ult. Owing to the early hour at which the day's proceedings in the House of Lords terminated, the gallery was extremely crowded.

The Speaker having taken the Chair at a quarter to four precisely, a person appeared at the bar of the House with a return of the different fees taken in the Courts of Requests, which was ordered to be printed.

**STATE OF THE NATION.**

**GENERAL GASCOYNE** rose to present a petition, containing most important statements, to which, if he did not take this early opportunity of calling the attention of the House, he felt that he should ill discharge his duty either to it or to his constituents. He was well aware that at the present moment the general attention was almost entirely absorbed in the great and interesting question now pending before another House. Nevertheless, at all times, and in every state of things, the state of the country well deserved to be taken into the most serious consideration of the House. The Petition he held in his hand was from the town of Liverpool: the increase of paupers was the great and original ground of complaint; and the present state of trade was the great cause of that crying evil. When he mentioned the very great increase of paupers in Liverpool, he was only sorry to add, that he believed it was equally extensive and alarming in other manufacturing towns. In Liverpool, however, such had been that increase, that no less than 14,000 paupers were supported by the produce of poor rates; to maintain such an enormous number, there were rated not above 20,000 inhabitants. (*Hear.*) The whole population of Liverpool was about 100,000 inhabitants in 1810; take it to be at present about 110,000. But he would first beg leave to state, that this Petition was the result of a general and most respectable meeting, called by the Mayor of Liverpool, and exceedingly well attended. When it was transmitted to him (*General Gascoyne*) for the purpose of presentation, he was at the same time instructed to inform the House, that owing to the great increase of the population at this time, and of the paupers, the dues and rates which were then levying, it was feared, would prove wholly insufficient and inadequate for the purposed destination. But this evil had so much increased last year, that the petitioners thought it highly material to call the attention of Parliament to the subject. At least 7,000 out of the 20,000 who were so rated could not pay their proportions of rates. The petitioners were well aware that the matter of the poor rates had always been attentively considered by Parliament, but

unhappily they had, as yet, obtained no real redress. Of the distresses endured by the labouring and poorer classes throughout the country, they considered the principal cause to have originated in the prohibition laid by Government upon the importation of corn from foreign countries. They considered, and he really believed that many in that House would concur with him in thinking so, that as to the high price of bread, the corn-laws, the prohibition of the importation of corn under certain restrictions and limitations, and the free trade carried on in that article, were the natural and proper sources of that evil; and in conclusion, they humbly requested that Parliament would direct its attention to the prayer of their Petition at a period as early as possible. The petition itself was signed by about 14,000 inhabitants.

It was then brought up, read, and ordered to be printed.

**MR. HATSELL.**

The **SPEAKER** then rose. He had to inform the House that Mr. J. Hatsell, late Clerk of that House, died on Sunday morning last, and that in a few days his Majesty would appoint some other person to that situation.

**LORD CASTLEREAGH**, in an extremely low tone of voice, expressed his conviction that he should fail in the performance of his duty to the House if he did not bear his testimony to the exemplary and able manner in which the deceased individual had always discharged his important duties. The only reason why he did not more particularly, at this moment, call the attention of the House to the great merits of Mr. Hatsell—of which, however, he entertained the highest sense—was (we understood his Lordship to say) the fact that they were met for a purpose of so very different a nature.

**Mr. TIERNEY** joined in the tribute of respect which the Noble Lord had paid to the memory of the deceased.

The **SPEAKER** would venture to suggest the propriety of a motion, which it was competent for any Hon. Gentleman to make if he should think fit. It was in the power of any member to move that the vote of the year 1797, passed in acknowledgment of Mr. Hatsell's services, should be now read, and the repetition of that vote would then form a part of the proceedings of this day.

**LORD CASTLEREAGH** moved accordingly, and the following Extract from the Journals of the House was read by the clerk:—

“That Mr. Speaker be requested to inform Mr. Hatsell, the clerk of the House, that this House is pleased to testify its high sense of the exemplary manner in which Mr. Hatsell has always performed the duties of his situation.”

The Speaker intimated that he would, in a few days, acquaint the House of his Majesty's nomination.

### THE QUEEN.

LORD CASTLEREAGH rose to move. "that a committee of this House be appointed, to inspect the Journals of the House of Lords, with respect to any proceedings had in their Lordships House relative to a bill entitled a Bill of Pains and Penalties, &c. and to make a report to the House thereupon." (Hear)

Mr. TIERNEY was quite sure that the proceedings of the House of Lords that very day were most necessary to be included in the instructions of such a committee. It did appear to him highly material, from something that had come to his knowledge during the afternoon, that the House should have before them the proceedings of that very day, and especially as they regarded the particular point referred to the Learned Judges.

LORD CASTLEREAGH said, we believe, but in a very low voice, that if the right Hon. Gent. wished the question to be put in that shape, it would involve the discussion of the general question of her Majesty's guilt or otherwise.

Mr. TIERNEY was unwilling to do so; but, connected with the manner in which the proceeding originated, that would be a question.

Mr. TIERNEY then moved that the following words be added to the original motion of the Noble Lord, "including the proceedings of their Lordships this day," as an instruction to the Committee. The motion, so amended, was agreed to.

Lord Castlereagh, Mr. Brogden, Mr. Huskisson, Mr. Sturges Bourne, and another member, whose name we did not learn, were then appointed to form the said Committee, and to withdraw forthwith to the Speaker's chamber.

### PLYMOUTH PETITION.

LORD JOHN RUSSELL had to present a petition which he held in his hand, signed by 2,000 inhabitants of Plymouth, being the largest number of persons who had ever signed a petition in that town, upon any one occasion, excepting against the property-tax. It was upon the subject of the Bill of Pains and Penalties now pending against the Queen; and they prayed, that, if ever that bill should come down into the House of Commons, the House of Commons would immediately throw it out. (Hear, hear.) In their opinion, they added, that bill, if its actual character were viewed only in a mere political or judicial light, was calculated to destroy all those beneficial principles of public good and national expediency, to whose maintenance it professed to contribute. As this petition had been intrusted to him by

those who were directly interested in it, requesting that he would support its prayer, he now declared that he had not the least hesitation in saying, that, if ever the bill should come down into that house, (which he most sincerely hoped it would not,) he should always be ready in his place to oppose it, by his vote, upon every occasion. As for the question of guilt or innocence, affecting the party who appeared against the bill now pending in the other house, it was pretty clear, without entering into the subject at all, that the evidence adduced in support of it was not such as to make the public think that the Queen was guilty. Whatever difficulty there might have been in the task of showing or deciding, as a member of parliament, that the course of proceeding was highly improper, that was now totally removed; and he trusted that the people would be found still to continue in the same sense and feeling upon this matter. If the opinion of the people was so general, he (Lord Russell) humbly thought that that alone took away the whole ground of the motion; for, as it was said to be intended as a public measure, in order to prevent the conduct of her Majesty becoming a bad example to all, it was quite clear that, if the people believed the Queen to be virtuous, they stood in no need of adopting a measure which was only levelled against the Queen in the belief of her being guilty. (Hear.) Besides, let the house look at the mischievous consequences which the mere agitation of such a measure had produced. In addition to the evidence taken at the bar of the House of Lords, there had been propagated by the public press a thousand calumnies which could not be foreseen. Through that medium some members of the highest classes of society had been grossly calumniated, for no other reason than the giving evidence in her favour. He hoped, on the other hand, that the people would not lose any opportunity of expressing, in that house, their opinion against the unwarrantable and unprecedented conduct at present pursued and persevered in against her Majesty.

Mr. LOCKHART hoped that the House would pardon him for a short time, if he ventured to deliver his sentiments on the subject of this petition. That opinion was in entire concurrence with the sentiments expressed in the petition itself. He could not but regard its prayer, as he looked upon the mode, in which this Bill of Pains and Penalties had been instituted, and the record of which was now before them on their journals, as not only a most unconstitutional violation of the Parliamentary laws of this kingdom, but as endangering the safety of the lower and middling ranks, by first of all striking, as was the practice in former ages, at the lives of those who were in the highest.—When he called such a mode of instituting a proceeding, and such a proceeding itself, a violation of the laws, he meant to

say a violation of the statute of Edward III., which was the statute of treasons, and a violation at the express declaration of *Magna Charta* itself, which had ordained in the words "*Nemo capietur aut imprisonetur, nisi aliquo modo destruatur; nisi per legale iudicium parium suorum aut per legem terre*" Now this very Bill of Pains and Penalties—this unjustifiable species of encroachment—was that "*aliquis modus*"—that *modus destruendi*," which our ancestors had so well preserved, and, with so much providence endeavoured to avert—a method of procedure which was now in a civilized age revived—which was at this day brought forward against the authority of all precedents, and the force of all laws. (*Hear*) He meant to say, and he said it unhesitatingly, that by this measure the statute of Edward III. was most essentially violated; for, as the House had now a formal knowledge of the bill, he thought that was made to appear, and was charged as a misdemeanour, which, on the showing of the framers of the bill, was high treason. He ventured to affirm, that, under the pretext of the commission of a misdemeanour only, the Bill itself, however carefully it had been drawn, did in fact charge that which was high treason; or at least pointed out no particular crime in favour of which such a distinction could be taken, as to render it less than high treason. He had understood that the general reason assigned for the opinion that the charges alleged against the Queen did not amount to high treason was this—that a Queen-consort was incapable of committing high treason with a foreigner in a foreign country. Now, what would the House think of this proposition when it learned that, though the bill alleged the acts to have been committed with a foreigner, it did not allege them to have taken place in a foreign country? (*Hear*). He was surprised that those Learned Gentleman who had drawn this bill, and from whose habits more legal accuracy might have been expected, had not more carefully performed their task. (The Honourable Gentleman then proceeded to read the preamble and various clauses of the Bill of Pains and Penalties, for the purpose of showing that there was that omission of which he had spoken; and further, that though the intercourse was charged to have been continued in various foreign places, no place was laid where it was charged to have been commenced. He contended that the utmost precision and certainty and accuracy were to be required in the preambles, provisions, and enactments of all bills of this extra-judicial nature, and that, whatever might be the difference of opinion entertained among men as to the character or expediency of such bills, every one would readily agree that it was not competent for Parliament to assume that sort of jurisdiction which they had done in the present

case, viz, to soften down a particular offence into one of another character, and then to proceed against it by a Bill of Pains and Penalties, under a pretence of favour and kindness to the party against whom it might be instituted. It was urged, that if they proceeded by impeachment in this instance, there was this danger—that they might decide that the crime was high treason: and then the accusation must necessarily fall to the ground. Now he maintained that the very circumstance of this being a doubtful case as to whether it was one of high treason or not, took it entirely out of their cognizance. The law itself upon this point, too, was in extreme doubt. It was doubtful, notwithstanding all the authorities which might be cited, whether the Queen-consort, or the companion of the eldest son of the King's committing adultery was high treason or not, whether with a foreigner or otherwise. And first there was Lord Coke's authority: he said, "If the Queen-consort consent to him that commits the crime, she is equally guilty with him." And this he illustrated by authorities; but those authorities he (Mr. Lockhart) had looked into: one was the case of Anne Boleyn as reported by a judge of the name of Spelman or Spilman; and the other that of Catherine Howard, who was attainted. His (Mr. Lockhart's) authorities, let it be remembered, were acts of parliament, Lord Coke's and Judge Spelman's reports. (The Hon. Gent. then went into a statement of those cases at considerable length, prefacing his observations by remarking, that the same Spelman was the judge who tried Sir Thos. More, the Lord-Chancellor. It was doubtful in the first place, whether Spelman's Report, so often quoted, ever existed; the only authority to be at all relied on, as to that point, was Burnet, who professed to have found it only in the torn leaves of an old commonplace book. The Honourable Gentleman, on the whole, inferred that in point of fact, Anne Boleyn was not tried for adultery; and for this reason—that before her execution a suite of divorce was instituted against her by Henry VIII.; sentence was pronounced against her by the Archbishop of Canterbury, and the marriage declared null and void, *ab initio*, by reason of a pre-contract: therefore it would have been absurd to try her for adultery, as she was not the wife of the King. To the same purport he quoted a subsequent act of Henry VIII.) Lord Coke had also cited the case of Catherine Howard, whom he described to have been attainted, and to have been tried for adultery—an error in which that great man had been followed by Hawkins, Hall and Blackstone. He (Mr. Lockhart) had been favoured by the Learned President of Magdalen-college, Oxford, with a MS. book written by a Mr. Thomas, who was clerk of the council in the reign of Henry VIII., and of his son Edward VI. In this book the author, professing to give a dis-

fract answer to every one of the charges brought against the former King by the Roman Catholics in foreign countries (the scene being laid in Italy), says—that Catherine was attainted, not for adultery committed by her as Queen, but for her dissolute life previous to marriage; and not that she had committed adultery, but had “thought means” to commit it. The conclusion he (Mr. Lockhart) drew from these cases particularly, and the consideration of the acts of parliament, and sentences consequent upon them, was entirely at variance with those great law authorities he had named. This case, as it now stood, was raised rather upon Coke’s commentary, founded, as he thought, in error, than upon the law and the statutes themselves. The Honourable Gentleman next argued upon the great mischief and rashness of creating other species of treasons, after the express and definitive enumeration of them in the statute Edw. III. and cited the famous weaver case, as it was called, reported by Sir M. Hale, to show the laudable and strictly legal scrupulousness of the judges of that day upon this particular. It was clear, in this case, that there being difficulty and doubt upon the subject of high treason, Government had resorted to a Bill of Pains and Penalties, to try the Queen for a pretended offence, which the same reasons and the same necessity rendered it incumbent upon them to soften down, so as to become the proper object of such a measure: it was certain that the better way would have been by impeachment, which was only neglected because of the probability of failure; and he declared, that if they in any manner carried this Bill of Pains and Penalties, they would shake the statute Edward III. to the very root, and loosen the foundations of civil society; no man could be safe under such vicious precedents. It was impossible that he could ever believe the Queen to be guilty, because he and they had seen how the evidence against her was mutilated: how it still, like a wounded serpent, “dragged its slow length along,” unfit to live, and yet unwilling to die. It was not the husband alone, but the King’s ministers also, who had been guilty of such vast *laches* in allowing the departure of the Queen. The whole country, that house, and he himself, as a member of it, had been equally guilty of *laches* in that respect. But what were the circumstances which occasioned it? He recollected the late Mr. Whi bread’s asking the question of the Noble Lord opposite, whether it was meant that the Queen should go abroad or not? And that Noble Lord answered, it was not meant to imprison the Queen. Were they, then, after showing themselves so indifferent to the honour of the Queen, and to the safety of the succession—after leaving her in so unguarded a situation, totally destitute of protection—were they now to become so

careful and watchful? No, if any crime had been committed—and he was happy to say that no grounds had been shown on which a court of justice would believe that any crime had been committed (*hear, hear*)—but, supposing that guilt really could have been proved, still he would say, that, for their own honour and exculpation, it would have been much more proper and expedient to have passed it over than to have instituted this proceeding, which could answer no good purpose. These were his sentiments, and he hoped that Honourable Gentlemen would take this opportunity of expressing their opinions (*hear, hear*) in such a manner as to render this iniquitous bill extinct and dead. (*hear, hear.*)

The petition was then laid on the table, and ordered to be printed.

Sir W. CURTIS moved a new writ for a member to serve in Parliament for the county of Warwick, in the room of Sir C. Mordaunt who has accepted the Chiltern Hundreds.

Mr. HUME presented a petition, numerously signed, from the burgh of Dundee, praying the House not to entertain the Bill of Pains and Penalties, which the petitioners considered an *ex post facto* law. The petition was read, and laid on the table.

#### MANUFACTURE OF SEDITIOUS AND TREASONABLE PLACARDS,

Mr. HUME was anxious to call the attention of the house to a question of very considerable importance, involving as he was prepared to show, and as every other person must be convinced who had the same opportunity of seeing its effects, a system which had tended in a great degree to disturb the peace of the country. He proposed, in the first place, to submit a motion for calling Sir Robert Baker to the bar of the house, to answer for his conduct as a Magistrate, touching an individual into whose conduct he wished inquiry to be made. The proceeding which he was about to bring under their notice had been productive of infinite mischief, not only in England, but in Scotland, and to a greater extent than any one could imagine who had not had the means of becoming acquainted with it. In tracing this conspiracy, he meant at present only to go as far back as the year, 1818, since which time a manufactory of treasonable placards had been carried on by the individual in question. During the last two years he (Mr. Hume,) had traced this person under the names of Forbes, Fletcher, and Franklin. Under all these names he had traced him to various houses; and the last by which he went, and under which he had been arrested, was Wm. Franklin. It was within this period that the Noble Lord opposite had introduced the six famous bills to abridge the liberties of the country, and every one who heard his speech on that occasion would doubtless recollect the stress he laid on the



placards that were stuck up in every street, vilifying the King and the constitution. (*Hear.*) Even at the last meeting of that house the Noble Lord had complained that the friends of the Queen were inflaming the public mind and inciting the people to disaffection, by placards exhibited in the street. (*Hear, hear.*) He (Mr. Hume), who had heard of the placard conspiracy that was carrying on, could not fail to be struck with these complaints of the Noble Lord. It was unnecessary for him to expatiate on the extent of mischief that must have been occasioned by this system; indeed he was convinced that many lives had been sacrificed by the individuals engaged in it. In May, 1820, a placard appeared in Glasgow and Paisley—not indeed so violent as some others which he held in his hand, issued by the same individual, but—which called on all the working manufacturers to abstain from work after the 1st. of April, and urged them to take arms against the government. Every one knew what the consequences had been in that part of Scotland. A reward was offered by the magistrates for the detection of the author; but the matter did not rest there. Soon after, upwards of 20 families were taken from their beds, and carried to prison. One of the sufferers on this occasion—and, as far as he knew, a respectable individual was marched to Bridewell; and when at last brought out before Mr. Hope to be examined, he was told that he had been apprehended for publishing this placard. But though all his papers had been seized and taken away, not one scrap of evidence was found against him; and, as far as he himself understood, the only cause of his confinement was, that he was a friend to rational reform, and had declared his disapprobation of employing military force. These were the proceedings which had led to the business at Bannymuir, and the other disturbances in Scotland. The common answer given by persons of authority, when applied to for the purpose of detecting any conspiracy of this kind, was, that it was extremely difficult to trace these things. (*Hear, hear.*) But what would these persons think when they heard that this individual (Franklin), had been traced by Mr. Charles Pearson in a manner which did him much credit? On the appearance of the placard issued in the name of the Queen's Plate Committee, Mr. Pearson had naturally felt much concerned, because he was connected with that Committee; and accordingly he used every means which ingenuity could suggest to detect the author. He might here remark that this Committee had been occasioned by the conduct of his Majesty's Ministers, and the detection of this conspiracy seemed a judgment against them for their treatment of the Queen. He said so, because he was convinced that this conspiracy was carried on and supported by his Majesty's Ministers (*loud cries of hear, hear*); and he should not

have laid the matter before the House if that had not been his belief. He had not come to make the present statement on his own simple judgment; he had affidavits of all the facts he was going to state; so that, if his statements were in any respect erroneous, the fault was not his. He had not been satisfied with the declarations of one, two, three, or five individuals, but he had himself traced the hand-bill to the person who received the commission from Franklin; he had examined the compositor who executed the bill, and was furnished with his depositions on that subject. He had also seen the bill-sticker, who had been employed to stick them up by night; and, in short, he had taken every precaution to arrive at the truth. The first affidavit he should read was that of the printer, who had produced 18 other hand-bills printed by him, all of the most inflammatory nature. This person stated who it was that employed him, and who it was that paid him—and that was William Franklin, whom a magistrate of Bow-street had allowed to escape. (*Hear, hear.*) To those who were magistrates he stated the following fact, and left them to judge of it for themselves:—Franklin was arrested on the warrant of one magistrate, and, after having been brought to the office, was discharged by another, without even seeing that one who issued the warrant. (*Hear, hear.*) He was discharged, too, on Sunday—a thing which he understood was not usual. Vickery, the officer, who was not in town at present, had told him (Mr. Hume) that Franklin was discharged from his custody on Sunday, by Sir Robert Baker, without having seen him. He was taken in bed at five o'clock on Sunday morning, and at seven o'clock he was brought before Mr. Birnie.—Mr. Pearson, who was unable to attend, thought it proper to write a letter to the magistrate, stating that the charges were of such a nature that he should be cautious in taking bail for his appearance, and that if bail were admitted, it should not be less than two securities of 500l. each. Although the charge on which the warrant was granted referred only to one hand-bill, there were 15 others ready to be produced against him.—The consequence was, that Mr. Birnie, seeing the importance of the charge against the prisoner, refused to accept bail. Franklin then said he wished to be taken before Sir Robert Baker, for he was sure Sir Robert would admit him to bail. He (Mr. Hume) was not prepared to state that the letter of Mr. Pearson to Mr. Birnie was shown to Sir Robert Baker; but the fact was that the latter allowed Franklin to escape. Now, his objection to the conduct of Sir R. Baker was, that he acted improperly as a magistrate; and he had, in fact, stated a deliberate falsehood in his (Mr. Hume's) hearing—namely, that he had taken security for this person's appearance. What connected this with the Hume-



office was, that when it was said the man would not be forthcoming, Sir R. Baker had declared that he was sure he would, and that he had taken proper security. But Franklin's daughter having told Williams, next day, that her father was an hundred miles from London, Mr. Pearson went to the Home office on the subject, and found that Mr. Clive, the under-secretary, was already acquainted with all the facts. (*Hear, hear.*) The object of his motion for bringing Sir R. Baker to the Bar of the House was, to know when he made the communication of these facts to government, and what was his reason for letting Franklin escape. Considering all the facts of the case, he thought he was warranted in saying that this conspiracy was connected with the Home-office. Mr. Pearson, on applying at the government-office for assistance in the apprehension of Franklin, presented some of the hand-bills to Mr. Clive, that he might judge of their character, and that gentleman said to him—"Oh, we know all the circumstances already, and if you will call to-morrow we shall give you an answer." Mr. Pearson then stated that he knew Franklin had proceeded in the course of the night 100 miles from London, and represented that his object was to prevent the man from escaping. Mr. Pearson, and those who accompanied him, left some of the bills at the office; and, when they came back, the answer given them was, that my Lord Sidmouth did not think the subject worth an investigation by government. (*Hear, hear.*) It was not his intention to go through all the placards of which he was in possession; but he should select a few, for the purpose of showing the manner in which government had proceeded. In February, 1796, the Duke of Portland, in consequence of an inflammatory hand-bill which had appeared, and which did not equal one-tenth of the atrocity of those now published, caused the following offer to be inserted in the London Gazette:—

"Whereas it has been humbly represented to the King, that, on the 3d day of Feb. inst., a paper was found stuck upon the town-hall at Denbigh, in the county of Denbigh, on which was written a wicked, false, scandalous, and seditious libel, tending to excite, discontent, riot, and insurrection among his Majesty's liege subjects in those parts; and also containing divers wicked and threatening expressions against the magistrates, landholders, and farmers of the said county and neighbourhood." (And then followed the usual offer of pardon, and a reward of 100l.)

(Signed)

"PORTLAND."

Again, on the eleventh of April last, the following offer of reward was made by the government for the detection of the author of the placard to which he had already adverted:—

"Whereas, it hath been represented unto us, that, during the night of the first day of April inst. many copies of a printed treasonable paper, entitled an Address to the Inhabitants of Great Britain and Ireland, and purporting to be issued by order of a committee of organization for forming a provisional government, were affixed on the walls and other conspicuous places in the city and environs of Glasgow, and in various parts of the counties of Lanark, Renfrew, Ayr, Dumbarton, and Stirling. Now we, being desirous of bringing to justice the authors and printers of the said treasonable paper, by and with the advice of our Privy Council, promise our most gracious pardon to any person concerned in affixing and publishing the same, except the authors and printers thereof, who shall give such information to one of our principal Secretaries of State, or to our Advocate of Scotland, or to the Lord Provost of our city of Glasgow, as shall lead to the detection of the authors or printers thereof: and for the further encouragement to make the said discovery, we do hereby offer a reward of 500l. to any person (except as before excepted) giving such information as aforesaid, so that the authors or printers may be convicted of writing, composing, and printing the said treasonable paper, such reward to be paid on the conviction of the offenders, by the Lords Commissioners of our Treasury.

"Given, &c. at Carlton-house,  
April 3, 1820.

"God save the King."

Now, the person who waited on Mr. Clive urged that government should offer a reward for the apprehension of Franklin—and every one knew the effect which a reward was likely to have on an officer in such a case; but here my Lord Sidmouth, out of his very great discretion, would not interfere with so able a magistrate as Sir R. Baker. (*Hear, hear.*) When he reflected on the consequences produced by these placards, he could not think that an inquiry into the subject would be unimportant. He should prove, if a committee were appointed—as he hoped one would be appointed to investigate the matter (*hear, hear*)—that that individual had no ostensible means of living, and that he was in the habit of dining with a minister of the crown (*a laugh*)! at least that he left his house for the purpose, as he said, of dining with a minister. He should prove that he had been seen taking a hackney-coach at Charing-cross, and proceeding, by a circuitous route, from one street to another, and changing the coach several times, till he got to the house in Downing-street where the sentry walks (*hear, hear*); and that he had then been traced back from that house, in Downing-street, to the house of Denis O'Bryen. With this collateral, as it might be called, but, as he thought, direct

evidence of Franklin's connexion with the Foreign-office, surely there was some necessity for investigating the matter. He should now select a few of the affidavits which had been made on the subject; and the first to which he would direct the attention of the House was that of the printer. The Hon. Gentleman then read as follows:—"Arthur Seale, of No. 169, Tottenham-court-road, in the county of Middlesex, printer, on his oath saith, that in the latter end of June or the beginning of July, 1819, a man of gentlemanly appearance, who was then a stranger, called at my office, and asked if I would print some bills, saying, if I would undertake to do them, it would be very beneficial, as there would be a great deal to do in the same way; and he then produced the manuscript of a bill. I read the bill, and, perceiving it was of an inflammatory nature, I hesitated doing them; whereupon he said he would allow me a little time to make up my mind, and accordingly he went away, and returned in about two hours, when I still scrupled, and he said I need not fear, for that I should be protected in all I did. I then asked his name and address. He answered, that was of no consequence, for I might rely not only on being protected, but amply rewarded. I then printed 500, and he came and fetched them away at night. On the 12th of July he again came, and brought me the manuscript of a bill relating to the chairing of Sir Francis Burdett, in the body of which are these words—"Have we not in our glorious Burdett a leader fit to disturb the peace of all the world, and rule it when it's won?" and also "Strike not at all, or strike home! think of our present insupportable servitude, and always remember, that the alternative is, 'Liberty or a glorious grave.'" Here was a part of one of these seditious placards, containing treasonable expressions, which a man had gone about sticking up in the streets, and he thought the honourable secretary and his colleague would have done well to have looked at this bill; but they had to answer for their conduct. The affidavit then went on—"And I further, on oath, depose, that a few days previous to the trial of Sir Francis Burdett, at Leicester, the same gentleman brought me a manuscript letter, headed 'Private,' apparently intended to be sent to jurors, and desired me to print 48, which I did, and gave them to him. In the course of conversation, I understood from him that they were to be sent to the jury who were to try Sir Francis Burdett; and I afterwards saw, by the newspaper reports, that they were used for that purpose." (The Hon. member observed, that he held in his hand the original printed copy of the bill here referred to; and, in compliance with a desire expressed by several members, he read several extracts from it.) The effect produced by it was, no doubt, such as was intended, and, to see the handle which had been made of it, it was only necessary to look at the ministerial papers, in which it was held up as the act of the Radicals, and charged on all those who avowed themselves the friends of liberty and rational reform. (*Hear, hear.*) He thought that this alone was a sufficient reason for inquiring into the matter; and when it was farther considered that the Home-office had refused to offer a reward for the apprehension of the author, no stronger ground could be furnished. The deponent proceeded thus:—"I further depose, that on the 20th of July, 1819, the same person brought me the manuscript of another inflammatory bill, drawing the attention of the public to the Smithfield meeting, which was to be held next day, and headed, 'To the Non-represented;' and I printed, under his direction, near 500 of this last bill, and gave them to him." Of this placard he held a copy in his hand, and he begged leave to read it, that the house might the better be able to judge of its contents. (*Cries of "read."*)

**"TO THE NON-REPRESENTED."**

"May that day of trial, which our intrepid leader, in his answer to our requisition, said could not be far distant, be this day. Universal suffrage, annual elections, and voting by ballot, if possible without breach of peace: but, at all hazards, those objects.

No riot, no bloodshed by choice, but blood-thirsty despots must grant our rights. If that overgrown pauper, if the puppet of C—, of L—, and S—, whose villainous impudence at his late prorogation of the houses of corruption could mock the miseries of the non-represented, by jargonizing about our 'happy constitution!'—if he can be put down without breach of peace, let peace be preserved.

"If that compound of villainy and fraud, the B—k of E—d—if those who deserve the punishment they inflict upon their fellow-counter'eits, and merit halters more than the forgers they hang, can be annihilated without breach of the peace, let all be peaceful. Peace is our wish; but let us never forget that resistance to oppression is the constitutional privilege of every Briton.

"In London, Westminster, and Southwark, there may be, perhaps, about 20,000 voters; shall 100,000 of stout non-franchised hearts, reduced to the abject condition of slaves, lick the feet of such a comparative handful of rascals, who trample upon us, as they are lorded over by superior scoundrels? Shall ten times tenfold the whole body of electors in infamous Westminster crouch to those, who, in a 15 days' poll, insulted the venerable Cartwright with 38 voices? None but the Borough thieves of both the factions can maintain that any practical liberty remains to once free England. If the work

can be done without fasting, praying, or peace-breaking, good; but if the unspeakable grievances of non-representation cannot be redressed without vengeance, 'tis better to break our chains upon the heads of our common tyrants than longer to endure our servitude. And oh! if the day of trial is come, recollect that the corrupt knaves of the daily London press, with their bellish types, have been our greatest oppressors.—July 21; 1819"

Mr. HUME then read the continuation of the printers' deposition.

"And I further depose, that I have printed for the same person many other inflammatory and seditious bills, and, among others, four separate editions of hand-bills respecting the Queen's plate, and headed 'Evil be to him that evil thinks.' And I further depose that, on many occasions, when I expressed my reluctance to print such dangerous papers, and my fear of prosecution, he told me I had nothing to apprehend, for I should be perfectly safe if any discovery took place; and he gave me to understand that he was officially employed by the executive. (*Hear, hear.*) But, having some doubt of his assertion, I determined to watch him, and also employ others to do the same: and on one occasion, when he left my office, I saw him get into a hackney-coach, which I followed to Charing-cross, where he got out; and he afterwards entered two other coaches, and went by a very circuitous route to Downing-street; and I watched him into a large house, next to the sentry-box. I waited until he came out again, which was nearly two hours; and I then traced him to the house of Mr. Denis O'Bryen, in Craven-street, Strand. And I further depose that I have discovered the said person who so employed me to be Mr. Wm. Fletcher, otherwise Franklin.

"AUTHUR SEALE."

"Sworn before me, at the Justice-room, Guildhall, London, the 17th day of October, 1820.  
"M. WOOD."

It would be a waste of time to offer any observations to the house upon this affidavit. He would, however, beg leave to read the placard headed

"EVIL BE TO HIM WHO EVIL THINKS."

"The Queen's friends, whenever and however assembled, will not content themselves with empty professions, but give solid proofs of their zeal by effectually promoting the subscription for such a service of plate as may be worthy of this noble country, and show her Majesty's nefarious persecutors that it is not in the power of an infamous government, a corrupt judicature, or bribed majorities of execrable perjurers, suborners of evidence, or malignant conspirators—to shut the hands of the people of England after they have opened their hearts. Eternal

disgrace would be stamped upon the nation if this measure did not thoroughly succeed. Mighty events are probably in the womb of Time. Except from the merciless accidents of sex and primogeniture, what claim has the King upon the nation which the Queen does not possess in common with him? She, as well as he, is only third generation from one King of England; she is the niece and daughter-in-law of another King; and, without preaching any doctrine tending to civil convulsion, the historical truth is undeniable that England never was greater or happier than in the 'golden days of good Queen Bess,' and the glorious ones of Queen Ann. Some among the most remorseless of Queen Caroline's enemies might bear in mind that there is an express act of parliament which makes it penal to question the right of the nation to limit the succession to the throne. Whilst the wife, with the magnanimity of a Semiramis (*much laughter*), is propounding a system that must shortly regenerate this enslaved land, 'and crush the tyrant while it rends the chain,' the husband is playing the Dandy."

The whole of this bill was inflammatory, infamous, and detestable. One bill of great importance he had obtained. It was in the hand-writing of this Franklin, and the only one in his hand-writing which had been discovered. He had been anxious to ascertain whether this really was the hand-writing of this person. He had been prosecuted for crim. con. by Admiral Goodall; and a letter was on that trial ascertained to be his hand-writing. He (Mr. Hume) had compared the bill now in his hand with that letter, and he thought the hand-writing the same. But he had also submitted them to two type-setters, who had more experience in that way, and they believed the hand-writing to be the same. Other bills urged the labouring classes to revenge against the higher classes; but this bill directed the labourers to consider the middling classes as equally their enemies. The bill was in these terms:—

"7th September, 1818.

"Let us, in this mighty crisis, bear in mind that the great are not our only foes. Those middle ranks who make us hew and draw; and dole their pittance to us according to their humour—these are our most grinding enemies. What is the constituent body but the tyrants of the non-represented? What are the ten thousand wretches who, in Westminster, voted against Mr. Hunt, but oppressors of their non-franchised fellow-citizens—content to crawl before the higher orders, that we may continue slaves to both? Alike then, and equal, be their common destiny. The brave, though starving outlanders of Manchester, should be avenged in London. Shall non-represented Britons in such a cause be scared by the fear of gibbets

or bayonets? Be our remonstrance to the Crows decorous (*a laugh*); but let us, in one heroic day, convince mankind that the grievances of non-representation are now become insupportable.

**"ONE OF THE NON-REPRESENTED."**

Here then was a series of inflammatory placards, extending from 1818 till 1820. There was, indeed, a small chasm of the Glasgow address, and one or two placards since, which they had not been able yet to trace to their origin. Having stated these facts, and also the conduct of government and of the magistrates who had a situation in the Home-office, he could not separate from the conduct he had stated a direct charge of conniving at Franklin's escape. (*Hear, hear.*) He understood that, when it was reported that Franklin had been at Dover under the name of Harrison, and Mr. Pearson had applied at the Foreign-office for a passport, it was granted with great willingness. This was so far well. Until this individual should be forthcoming, it was impossible that the case could be made as strong as it ought to be; but he was prepared to make out a strong case before a committee, where only the actors and acts in such a proceeding could be fully disclosed. It was found that technical impediments were presented elsewhere to an inquiry sufficiently extensive to be satisfactory. (*Hear, hear.*) This was an inquiry of the utmost moment; it was a case of state necessity; it was the peace of the country that was at issue. (*Hear, hear.*) What was the object of government but the protection of the many against the lawless acts of a few? and if they allowed this conspiracy to pass unascertained and unpunished, was not the object of government perverted? (*Hear, hear.*) His own opinion was, but he spoke only for himself,—his own opinion was, when he contrasted this proceeding with the escape of Edwards, who had not been equally guilty with this individual, by means of whom 20 families in Glasgow were dragged from their houses, and committed to dungeons:—when he contrasted the conduct of government on this occasion, with their conduct towards Castles, well-known to an Honourable and Learned Gentleman opposite (the Solicitor-General) and justly described as the well-clothed Castles—and when he found Lord Sidmouth describing Oliver as "a much-injured individual;" when he contrasted the present case with the escape of Edwards, the good treatment of Castles, and the commiseration of Oliver, he was of opinion that there was just ground for parliamentary interference. (*Hear.*) No court of law could entertain the question in the shape which the rights of the country required, no court of law could award the justice which the names of those sacrificed to the arts and practices of such traitors demanded. In taking this course, he thought that in the

first instance the House ought to have Sir R. Baker brought before them, in order to explain his conduct. It was not the first time that a Magistrate was called before the House in such circumstances. Cases had occurred in which such a step was taken, although he had not had the honour of a seat in that House then. If he were one of his Majesty's Ministers, or one of their advisers, he would court this opening for explaining and justifying their conduct. If they refused to avail themselves of the opening for that purpose, the conclusion against them would be much stronger. The refusal to probe this case to the very bottom would be considered as proof that countenance was somewhere given to the notorious transactions in question. Although a Bow-street Magistrate could not understand treason against the people, they in that House were bound to inquire into this case for the people of England. The House would not do its duty if they did not call the individual implicated in discharging the offender before them, and probe the whole business to the bottom. He had only read 3 out of 18 or 19 placards, each worse than the other. If, however, any other member moved a different mode of proceeding, he should submit to it. At present he should conclude with moving that Sir Robert Baker, one of the Magistrates at the Bow-street office, should attend forthwith at the bar of the House, to be examined respecting the liberation without bail of an individual arrested on the 8th of October on a charge of writing and issuing seditious placards.

LORD CASTLEREAGH began by saying that a motion more inadequate to the opening of the Hon. Member he had never heard. The Hon. Member had concluded by merely proposing that the House should inquire into the conduct of a magistrate in liberating a person charged with publishing a libel. Now he should submit whether this House was not the last tribunal in the country for inquiring into the conduct of magistrates in taking or declining to take bail. If there had been any act of impropriety on the part of a magistrate, that could be easily and effectually inquired into in the regular courts of law, which were always competent and willing to inquire into it. But the charges opened by the Hon. Member were, that a conspiracy had existed since the month of April—that ministers were cognizant of this conspiracy—and that its object was to circulate inflammatory libels, for the purpose of stirring up rebellion. The first libel for this purpose was said to have been issued at the time of the Smithfield meeting; libels of the same kind were stated to have been continued from that period; and, lastly, it was asserted that an inflammatory libel had been lately issued by this conspiracy, in the name of a committee for raising a subscription for plate to her Majesty, which was an object degrading to the



crown, and degrading to the institutions of the country. This was the statement which the Hon. Member had gravely made to the House. The Hon. Member had often before presented the House with large draughts upon the credulity and folly of the public (*hear, from the ministerial side*;) but such a draught as this upon public credulity and folly, was never presented to the House by the Hon. Member, or by any other Member of that House. (*Hear, hear, from the ministerial side.*) He could assure the Honourable Member that no assistance was necessary from government for the manufacture of libels. (*Hear.*) Were not Hone, Carlile, Wooler, and others of that class, able to produce a sufficient supply of that valuable commodity? Were they not able to supply a sufficient quantity of that treasonable commodity, without the assistance and countenance of his Majesty's government. (*Hear, from the ministerial side.*) This mode of issuing libels was much more likely to have been resorted to by persons who were anxious to conceal their own enmity to the state under the cloak and sanction of an alleged conspiracy on the part of the government. Could the House believe—could any man believe—that ministers could be so destitute of discretion, as to have employed Mr. Franklin to issue such libels, and not rather have sought an agent of an unknown character? Could they have so entirely forgotten the means of giving effect to their object as to have forced into observation a person connected with themselves, by making him circulate bills in the name of a private society? A person thus employed must have been at once detected, and his employers must be unavoidably exposed—But ministers were supposed to employ a person of this character. Their agent in the circulation of inflammatory libels was one day dining with a minister of state; the next day he was seen driving about in a hackney coach, and associating with a man without a coat to his back, in such a manner as to provoke his own arrest. This intimate friend, this dinner companion of the minister must be at once traced and identified by the man whom he had employed, unless that man were blind of his eyes. He did not believe that a grosser statement than this had ever ever proceeded from the indefatigable character of the Honourable Member, who was the proper instrument for such statements; he did not believe that a grosser statement had ever been made to either House of Parliament. He (Lord Castlereagh) did not name the higher officers of state; but if in any office connected with government any individual were harboured for such a profligate and wicked purpose, he (Lord Castlereagh) would feel himself disgraced by serving such a government. (*Cheers from the Opposition.*) He would not enter more fully into the statements of the extraordinary

speech made by the Hon. Member—a speech unworthy of the assembly to whom it was addressed, and imputing to his Majesty's government the employment and protection of persons deserving the indignation of all governments, deserving of the contempt of mankind, and deserving the severest judgment of the law. That his Majesty's government could employ a committee for any purpose so profligate and base (*hear*) was certainly a charge of a most extraordinary nature. He would do injustice to the understanding as well as to the taste of the House, if he were to make this charge a subject of grave consideration. The only question before the House was, whether the motion now before it was or was not the best proceeding for bringing the individual in question to trial if he could be found. It was not a little singular that the series of libels alluded to, flagrant and incredible as they were when assigned to persons connected with his Majesty's ministers, were very creditable as proceeding from a Radical committee, who might endeavour to cover and protect, by such artifices, treasons and plots which had excited the indignation of the peaceable and well-disposed, which had for years agitated and distracted the people of this country, and which had brought the nation to the eve of a public convulsion. (*Cheers and laughter from the Opposition.*) They were quite consistent with the sinister wisdom of a Radical committee, to cover and conceal their own persons and designs, by carrying their base and profligate conspiracy to the door of an honest individual (*laughter*), who might find it safer to retreat than to be involved in such a charge (*laughter*).—It was not too much to suppose persons profligate enough for such a design in the wicked days in which we lived (*laughter.*) But he would put it to the House whether the mode now proposed was the best mode for arriving at the truth of the charge, and for bringing the individual to punishment? Would the House not see that if this was a conspiracy, since conspiracy was the fashionable expression of the present day (*repeated cheers from the opposition*), the best mode of tracing it was by the ordinary courts of law? He put it to the House whether they would not consult the wisdom of their proceedings by not interfering with a question which might, as the object of a criminal proceeding, come before the regular tribunals of the country? Would the House step out of its way to interfere with what would, ere long he hoped, become the subject of grave inquiry in a court of justice? And upon what grounds? It was stated in the Honourable Gentleman's speech that the conspiracy had been known since April; and an affidavit was read—

Mr. HUME.—The conspiracy is charged to have existed since September, 1818.



**LORD CASTLEREAGH.**—It was dated from the placard circulated in honour of those valuable men that were named in it—from the placard in 1818, respecting Sir F. Burdett. Did the house believe that the man who suffered such a secret to remain in his breast, and who took no step to expose or bring to punishment such treasonable acts, since 1818 till this time, would not swear any thing and against any person, however innocent and unconnected with such proceedings, and would not lend himself to any project for protecting his own treasonable conduct and villany in circulating inflammatory libels? Would the house feel that its powers were ever intended to reach such a case? Therefore he would not pursue this line of argument. If ever there was a case which ought not to be brought before the House of Commons, and, above all, a case respecting a magistrate liberating on bail or without bail, that very case was the one which the Hon. Member proposed for the inquiry of the house. This case was in every way unfit for that house; but, above all, as it was the subject of a criminal proceeding—

**Mr. HUME.**—Where?

**LORD CASTLEREAGH.**—The subject was unquestionably the subject of a criminal proceeding—

**Mr. HUME.**—Where? Where?

**LORD CASTLEREAGH** apprehended that a warrant was out against the individual, when without that he could not be intercepted. He must say a few words upon this point, although it was a waste of his time—although it was evidently wasting the time of the house. From the short time that he was aware of this motion coming on, he could give only an outline, but those around him were more able to supply what he might omit to mention. It was only in the course of this day that he had understood that this matter was to become a subject of remark in that house, and since then he had made such inquiry as was in his power to make. He could assure the house that he had never heard any thing of the transaction except from the newspapers. He had never heard but from the newspapers of Franklin, or Fletcher, or Jones (cries of "Forbes"), or Forbes; and he made the same communication in name of all his colleagues, and in his conscience he believed that not one Minister knew him. After saying so, he needed not say that the conviviality was all a fiction. Now he had learnt from the Home Department that Franklin had been arrested on a warrant granted by Mr. Minshul one of the Bow-street Magistrates, upon an affidavit sworn by Mr. Pearson, which stated very generally, from the description of the boy, that Franklin was the person who had issued the seditious placard. On that warrant the individual was arrested, and carried, not before Mr. Minshul, but before Mr. Birnie. He (Lord Castlereagh) had not seen Mr.

Birnie, but he had learnt that Mr. Williams had represented to Mr. Birnie the respectability of the individual arrested, but that the representation had not satisfied Mr. Birnie. Mr. Williams had stated that he was his next-door neighbour, and that from his respectable character he had no doubt that he would appear to answer any charge against him. Mr. Birnie, however, did not liberate him, and therefore they applied to Sir Robert Baker, at 5 o'clock in the evening. The Hon. Member, in the sanguine manner in which he coloured the case, and in his zeal to connect his Majesty's Ministers with the transaction had asked how it could have been known so soon in the Home-office? He (Lord Castlereagh), was not now speaking of Sir Robert Baker, or to judge of his conduct. He knew him not but by sight; but from his Noble Friend at the Head of the Home Department he learnt that a more honourable man, or more distinguished individual for fidelity in his office, could not be named. Sir Robert Baker, in the exercise of that sort of feeling which could be indulged when there was reason to rely on the testimony of a respectable individual, had liberated him. This was not till 5 o'clock in the evening of Sunday. Information was not received at the Home-office from Sir Robert Baker, who had bailed him, but from Mr. Minshul, who came to inquire whether any steps could be taken for arresting the individual in question at the out-ports. Therefore, it was not Mr. Pearson who first suggested that the Home-office should take some steps, but Mr. Minshul, who arrived to consider whether steps could be taken to remedy any evil that might arise from Sir Robert Baker's conduct. Therefore, he hoped he had satisfied the House that the Home-office had not known of the transaction antecedently to Sir Robert Baker's liberation of Franklin. The character of Sir Robert Baker was too high, as he understood, to be suspected of being a party to any fraud. Therefore, all notion of the Home-office having connived at the liberation of this person was removed, for it had become known only at the Home-office next day, and from Mr. Minshul. Afterwards it was submitted to Lord Sidmouth that it would be proper to issue an order for closing the out-ports. The application, as he understood it, was not a regular request of a proclamation for the apprehension of the individual accused, but for an order to stop him at the out-ports. Now the house would be aware that such orders were never issued but upon very important occasions, in cases of treason or of felony; and it was most essential to the liberty of the subject that such orders should most cautiously be issued; for, as sure as the Secretary of State issued his warrant for stopping Mr. A, Mr. B, or Mr. Franklin, so sure it happened that twenty Mr. Franklins, no matter of what class or

from what distant part of the country, were apprehended and brought to town. He would put a case to the candour of the Hon. Genl. (Mr. Hume). If the thing had been the other way; if the offender, instead of being a supposed friend to government, had been an apostle of liberty; and if Lord Sidmouth, then, determined to pounce upon his prey, had issued such an order, what would have been said? Why, the Hon. Members opposite had attacked Lord Sidmouth's circular letter, merely authorizing the taking bail under similar circumstances; the mere demand of bail was a heavy offence in the eyes of those gentlemen. If Lord Sidmouth had issued the order applied for, and if, in consequence of that order, 20 individuals had been arrested, the house would have had motion after motion, complaining of the act; and motions, he believed, of a far more formidable nature than that which the honourable member had submitted to their attention. After all, what was the nature of the offence, as it appeared in the warrant? He had in his hand the affidavit of Mr. Pearson, upon which the warrant had been issued; and he would say, that Mr. Minshul had pushed the exercise of his authority, as a magistrate, quite as far as the law would bear him out, in issuing a warrant at all upon such an information. There was no such word as treason or felony in any part of the affidavit. There was indeed the word "treasonably" mixed up with the word "sedition;" but that the offence, as it stood, was a bailable offence, was clear, because the whole charge against Sir Robert Baker was, that he had not regularly required bail. It was hardly necessary to trouble the house with reading the papers, because all Mr. Pearson had sworn was, that he had reason to believe (upon grounds which he did not deign to describe) that the person who had delivered the placards to the boy was a person named Franklin, but whose Christian name he did not know. He (Lord Castlereagh) had no design to lessen the weight, the magnitude, of the charge; the act imputed was an act equally profligate and mad; but he did not think that, under the circumstances, Lord Sidmouth had exercised a most sound discretion in declining to issue the warrant which had been applied for. The Hon. Member opposite had stated, and with great candour, to the House, that Mr. Pearson had found no indisposition in any department of government to assist him in pursuing Mr. Franklin, and following up his charge; that passports had been immediately granted and facility afforded. He (the Noble Lord) believed that passports were unnecessary; but he was free to state that every step had been taken to induce the foreign authorities to assist the efforts of Mr. Pearson; and his Majesty's ministers were most anxious that those efforts should be success-

ful—that Mr. Franklin should be produced—that the charge should be brought forward, and the offence, if proved, punished with the utmost severity of the law. There was only one more observation with which he would trespass upon the time of the House. The Foreign-office, he scarcely knew why, did very often find its way into the mouth of the Hon. Member opposite; and it had been introduced, he hardly knew how, upon the present occasion: it had been said that the individual, Franklin had been traced to a house in Downing-street, where there were two soldiers at the door. Now he begged most clearly and directly to state, without evasion, equivocation, or mental reservation, his firm belief that no individual connected with government had any connexion of any kind with Mr. Franklin. The Noble Lord then contended that the House ought not, at all events in the present stage of the business, to interfere; that the matter, which might now, it was to be hoped, be considered in a train of legal investigation, would be more properly examined in a court of justice, where testimony upon oath would be substituted for assertion; and concluded his address by characterizing the case presented by the Hon. Member (Mr. Hume) as the most inconsistent, inconceivable, and incomprehensible romance that ever had been invented for the annoyance of a government.

The Hon. H. GREY BENNET knew not which was most to be admired, the lofty tone which the Noble Lord had maintained throughout his speech, or the "lame and impotent conclusion" in which that speech had terminated. Surely it might have been expected that persons so anxious to prove their innocence before the House and the country would seize the first opportunity which presented itself for investigation: but the Noble Lord objected to examination even in *limine*; he would not suffer the House to look at the subject—and why? Because, forsooth, a criminal information might be filed against the magistrate in the Court of King's-bench. But he would tell the Noble Lord, that, before any thing could be done in a court of justice, corruption must be proved; and, although he did not mean to accuse Sir R. Baker of corruption, he had no hesitation in saying that the conduct of that gentleman had been most irregular and extra-judicial, and that he ought to be called upon, at the bar of that House, to explain a conduct which, in spite of the defence of the Noble Lord opposite, still remained involved in suspicion. Was there an instance—he would put the question to any magistrate sitting in the House—was there an instance in which a warrant granted, no matter upon what ground, by one magistrate, had been dismissed by another; neither the complainant nor the grantor of the warrant consulted in such dismissal? He did hope that he should have some better ex-

case for the apathy of the Home department than that which had been offered by the Noble Lord who had last spoken. He looked at the conduct and at the character of the Home Office in a very different light from that in which he viewed either the Noble Lord's office or the War-office. Those departments had not fed a Castles, clothed an Oliver, or panegyrised an Edwards. In cases like the present he looked at the Home-office with suspicion. It was an impure office; and he so considered it, not from any airy fancy of his own, but from facts which were in the mind and in the mouth every man in the country. Lord Sidmouth had been told, "Here is a man committing an act of almost unparalleled atrocity; he is distributing papers of the most inflammatory and dangerous tendency; this is not his first offence, he had been two years engaged in the commission of similar crimes; and he has done all this, calling himself a loyal man, and having received reward for his loyalty. Lord Sidmouth had heard all this, and had thought it not worth his while to interfere.—He (Mr. Bennet) did believe that no other man in England could have come to such a conclusion. It was curious to observe the conduct of the Magistrate in this case—so eager, so anxious to commit the miserable boy, the miserable agent, who could not even read the bills which he distributed—seizing the poor wretch, confining him—looking if he had any goods! finding he had none, sending him to gaol for three months; and then suffering the principal who employed him to escape. He did not suspect, (the Hon. Member continued)—he would not name those whom he suspected; they might not be the heads of the office—but he did think that a system had been organized for acting upon the minds of the timid; for attracting to the support of government men who disliked its politics and abhorred its principles, but who dreaded and disliked still more the idea of change or popular commotion. He did believe that means were taken to alarm that class of people, to make them believe that there were plots against the constitution of the country. The heads of departments might not be concerned in the employment of such devices; but there were their friends, their allies, their runners—men like O'Brien, into whose house Mr. Franklin had been traced; speculators, who, by acts of more than common infamy, were working out the crime of having once held better principles, and associated with better men. He believed that the two letters to the Earl Fitzwilliam, which had appeared in the *Morning Post*, and for which he wished with all his heart a prosecution had been instituted—he believed that those letters had been the production of that same man O'Brien. Such were the men who edited those infamous newspapers which daily in-

sulted the good feeling of the country; which to read was to arrive at the disgusting conviction that there were writers black enough, foul enough, mean enough to join in the villainous conspiracy which disgraced the country; which sought to oppress and crush a woman, and that woman, too, a Queen. In spite of the success of the Noble Lord opposite he would maintain, that the government ought to thank the Hon. Member for Montrose for the motion he had made. If they were innocent, let them prove it, but not by shutting every avenue to detection: that was not the way to satisfy the House or the country: people would not, by such means, be convinced that Sir Robert Baker and Mr. Franklin, and the Home-office were entirely unconnected with each other. For himself the Hon. Member declared that the House would not do its duty unless it probed the question to the bottom, and insisted upon hearing why the accused was not, as he ought to have been, in custody.

Mr. CLIVE thought that the circumstances of the case had not been fully understood by the Hon. Member who had just sat down. It was in the course of business for some one of the Magistrates to visit the Home Office on the Monday in each week; and, in the execution of that duty, Sir Robert Baker had called on the day in question. The conversation turning upon the case of the boy who had been apprehended for distributing the placards, had naturally led to the introduction of Mr. Franklin's business. Shortly after Mr. Minshull had come in to apply for the means of stopping the out-ports, as to which application he (Mr. Clive) had spoken doubtfully, and had expressed his opinion that such a measure, except in cases of treason or felony, was improper. The Hon. Member continued to state, that Mr. Minshull had then departed, and that to a similar application from Mr. Pearson a similar answer had been returned; and concluded by avowing that he had heard of Mr. O'Brien as the author of a political pamphlet some years back; but that to the name of Mr. Franklin he was altogether a stranger.

Mr. GURNEY, in supporting the motion, begged to observe upon some words which had fallen from the Noble Lord on the opposite bench. It was to the recommendation to foreign governments, with which that Noble Lord had supplied Mr. Pearson, that he alluded. Seeing that the case against Franklin was only a publication of seditious placards, he thought that a system among the governments of Europe of playing into each others hands, when particular individuals became obnoxious to any one of them, formed a convenient engine of tyranny and oppression. Declaration after declaration had been heard against the Alien Act, declarations indeed, to which he had not been a party, but

he thought it a more dangerous exercise of power, for one government to arrest the subjects of another merely because they stood in political opposition to the ruling powers in their own country, and he held the establishment or abandonment of such a principle to be an object of much greater general importance, than the escape or capture of the individual in question.

LORD CASTLEREAGH denied that the Alien Act had ever been employed in this country for such purposes as those to which the Honourable Member who spoke last had adverted. There was not a power with whom we were in alliance to whom it had not been distinctly stated, that whatever assistance might upon such occasions be afforded to England, that assistance could not be reciprocated.

Mr. Gurney and Lord Castlereagh mutually explained.

Mr. GIPPS, while he declined giving his support to the motion, was fully sensible of the mischief that arose from the distribution of inflammatory and seditious hand-bills. Placards, inciting the people to acts of violence were posted in every street, and he thought that the Home Office would display a laudable activity in employing persons to take them down.

Mr. BERNAL contended that the House was the proper place for the investigation of the case. The Court of King's-bench, if thither the affair was carried, would have nothing to do with the conduct of the sub-agents of government; that court would try the simple question—has the man committed treason, or has he not?

SIR JOHN SEBRIGHT could not vote for the motion, which (as we understood him) would be calling on government to commit an act of suicide. There was, in his opinion, nothing in the case which could prejudice the government at all. He had attended to the statement of the Honourable Member, and he did not view it as one affording any proof that his Majesty's government were to blame, or that the circumstances mentioned could attach to them. There was no denying that government was extremely unpopular at the present moment, and it was, he conceived, incumbent on them, in the present disturbed state of the public mind, to make every inquiry into this matter to prevent further irritation, but he believed the state of the public was such that they would not be satisfied with any government whatever. (*Hear.*) This he thought a prevalent feeling, and there were not wanting those who took every means of increasing that feeling.

Mr. TIERNEY agreed with the Honourable Member who preceded him, that in the present state of the public feeling every inquiry should be made on this subject, which would prevent an increase of irritation. He did think, therefore, that the Noble Lord (Castlereagh) had treated the case with a

levity which it did not deserve. He had admitted that there was at present a very general irritation of the public feeling, and on this subject a great prejudice against the Home Department. He believed it was currently reported, and credited out of doors, that agents were employed to inflame the minds of the people. The very existence of such reports was a reason why inquiry should be made into the subject before the House. What steps had been taken for this purpose? Why, as it had been already well observed, had no reward been offered for the apprehension of the individual? The Home Department must have been aware of the circumstance, for one magistrate conceived it of such importance as to communicate it there; but another magistrate discharged the party accused, without asking a question on the subject. What was the consequence? The accused person absconded, which in itself implied guilt. Was it then to be said that no steps were to be taken to discover this person who had so contrived to elude justice for the present. But it was wrong, it seemed, for gentlemen on his side of the house to complain of such conduct; and they were also to be considered in the wrong when they complained of severity and unnecessary vigilance on other occasions. Whichever way they complained, they were sure to be in the wrong. (*Hear, hear.*) Why did the Noble Lord think that if the case had been the other way it would have been treated in this manner; or was it to be said that this was but a contrivance of the Radicals, and that nothing was to be done in it? Fully convinced as he was of the necessity of enquiring into the affair, he could not, however, support the motion of his Honourable Friend; for he agreed with the Noble Lord that at present it would not be proper to call a magistrate before the house, who might be asked to disclose matters possibly criminating himself. He would rather wait and see if this person were taken, and he hoped that no step necessary for that purpose would be neglected, for he looked upon the papers in question to be of as inflammatory a nature as any which the Noble Lord had on other occasions put into some of his green bags. (*Hear.*) He had said thus much that he might not be considered indifferent on such a subject as the present; for there was a very general opinion out of doors that the government was very indifferent to such matters, and this had created a feeling which no man who valued the tranquillity of the country would wish to see prevalent. He looked upon an investigation into this subject as necessary for the public safety. He was surprised to find the Noble Lord dwelling upon the giving of letters to our ambassadors, for the gratification of the parties applying, when, according to his account, those letters could not be worth a farthing. For he afterwards observed, that except in the cases of



treason, murder, and one or two other crimes, foreign governments would not interfere. But he (Mr. Tierney) had heard of other cases not comprised in those he had just mentioned, where foreign governments had interfered. He had seen from the public papers, in describing the proceedings of a court of justice, that foreign governments had interfered, some in obliging their subjects to come here, and others in hindering theirs from coming, for a particular purpose, and this, no doubt, was done with a view of obliging the government here. Then the Noble Lord said that the alien act had never been resorted to for the purpose of obliging other governments. The Noble Lord was always anxious to guard against any such impression with respect to this act. But he (Mr. Tierney) had reason to believe that the Noble Lord's memory was very treacherous on this point. He could mention a case where individuals, as respectable as any in Europe, had been sent from this country, not because their presence here was dangerous to the state, but because it was displeasing to another power that they should be suffered to reside here. (Here some few words passed between Lord Castlereagh and Mr. Tierney across the table, but in too low a tone to be heard in the gallery. We understood Mr. Tierney, in reply to a question from Lord Castlereagh, to mention the name of one of the parties—but this we could not distinctly catch.) The fact (continued Mr. Tierney) could be proved beyond a doubt, and he had authority for saying it, that those two individuals had been sent out of the country, for no illegal crime, but because it was not pleasing to another power that they should remain here.

LORD CASTLEREAGH—(Across the table.) When?

Mr. Tierney.—“About two years ago.” In continuation Mr. Tierney observed, that he had a conviction of what he was stating, and (as we understood him) he would call the attention of the House to it at another time. He only mentioned the circumstance now, to show that the alien act had been used, not for the safety of this government, but for the gratification of other powers. He hoped his Hon. Friend would consent to withdraw the motion for the present, and wait to see if the accused party should be taken. But he trusted and expected that every possible diligence would be used by his Majesty's Government for that purpose; and if it should turn out that, in consequence of what had been already done, this person should finally escape, he hoped that such steps would be taken as would enable the government to stand clear with the country, which he was anxious they should.

LORD CASTLEREAGH, in explanation, denied his having admitted that the letters would be of no use. He only stated, that  
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foreign governments were not bound by any agreement to assist in the arrest of subjects of this country, except in the cases he had mentioned; but he stated that they had in many instances given that assistance, when they were not bound so to do. The case of the individual alluded to was only a misdemeanour, and they might if they pleased assist even in that.

Mr. CLIVE observed, that it was not the practice of the Home Department to offer rewards in cases of offences similar to the one charged in this instance. They had offered a reward for the apprehension of the author of the Glasgow placard; but then it should be recollected, that that was in times of known existing treason.

Mr. BECKETT was anxious, in addition to the statement of his Hon. Friend, to mention, that in the course of his experience it was not the practice of government to offer rewards in such cases as the one alluded to. They usually offered rewards in cases of murder, burglary, and other cases of violence; and the reason was, that the party being likely to escape, the offer of a reward would tend to prevent the purposes of justice being defeated, but it was only in cases where it was supposed that the ordinary methods would fail that such rewards were offered. In the present case it was not seen that the ordinary mode had failed, and therefore a reward had not been considered necessary. With respect to Sir Robert Baker, whose name had been mentioned, he did not think that in justice to that gentleman he ought to let this opportunity pass without stating what was his knowledge of him. He had known him well for 14 or 15 years, and he considered him utterly incapable of acting from a corrupt motive. He thought that, if there was any objection to that gentleman's conduct, the King's Bench would be the proper place to make application against him; and while that was open to any person who conceived that he had not done his duty, he thought it would be unjust to prejudge the case in the House.

Mr. BROUGHAM concurred with his Right Hon. Friend (Mr. Tierney) in requesting that his Hon. Friend (Mr. Hume) would reconsider his motion, and wait to see whether the ordinary means of redress, and also the defence of the party accused, should fail. For he admitted that, even if a *prima facie* case were made out, he would be the last man to deny that the House of Commons had the power to entertain such matters as that mentioned by the Hon. Mem. for Montrose; as the grand inquest of the nation they had such power, but it did not follow that they were bound to exercise it on every occasion. The statement of his Hon. Friend, if fully borne out, would not be merely an inquiry with respect to his Majesty's Ministers, it would be a serious charge,



and one of impeachment; but the present was not, he conceived, the time to go into that. As to Sir R. Baker, without attempting to deny the justice of the eulogium which had just been passed upon him, he would only say, that if what had been stated were true, his conduct was at least suspicious.—He would have been wrong to have suffered the party charged to escape, and he might have been even wrong to let him off on bail, and his conduct open to examination. There was, he thought, some inconsistency in one part of the matter with another. It appeared that Sir R. Baker had said, that he had suffered the accused to be out on bail; but in another part it was said, and that appeared to be the fact, that no bail was taken. This, however, was a point which might be easily explained. The part of this case that looked suspicious to him (Mr. Brougham) was, that Lord Sidmouth, on hearing the circumstance, which he did from one of the Magistrates had not attempted to prevent the party's escape by issuing a proclamation, offering a reward for his apprehension. He (Mr. Brougham) had not much experience of the mysteries of office, but he thought he had heard of rewards having been offered in cases not included in those which had been mentioned by the Right Honourable Gentleman (Mr. Beckett). He (Mr. Beckett) had said, that if the ordinary mode failed, then a reward might be offered. But it appeared to him (Mr. Brougham) that Government were bound to use all activity in this case, and yet they had issued no proclamation, offered no reward in this case, though it might be remembered that they had readily done so on other occasions. But what was this case? Here was a man who had absconded; that was the very reason why the thing should be done. Looking at it in this way, he did not think that the Right Honourable Gentleman (Mr. Beckett) had succeeded in making a good defence for the home department.

Mr. BECKETT, in explanation, observed that he believed he had been misunderstood in what he had said with respect to Sir R. Baker. He had stated, and he now repeated the assertion, that from the knowledge he had of that Gentleman for so long a period, he believed him wholly incapable of acting from a corrupt motive. But if any fault was found with his conduct, the King's Bench was the place where that and his motive might be better inquired into. As to the offering of a reward, he repeated, it was not customary to use the King's prerogative except in such cases as those he had mentioned. But in other cases the Secretary would require that the ordinary mode had failed before he resorted to a reward. Now, in the present case, that could not have appeared, for the thing was only known in the office about an hour before the time mentioned.

Mr. C. CALVERT expressed a hope that his 'Hon. Friend (Mr. Hume) would withdraw his motion. He (Mr. Calvert) had long known Sir R. Baker, and he believed him to be quite incapable of telling a falsehood.

Sir R. WILSON, after what had passed, did not wish to prolong the present discussion, but he wished to ascertain from the Noble Lord, whether, if the person accused should be taken, his Majesty's Government would order him to be prosecuted. It was essential to the purposes of justice that this should be done, for it was known that such prosecutions were attended with considerable expense, which individuals might not wish to sustain. It was necessary that something should be done by government in this matter.

LORD CASTLEREAGH replied, that the gallant officer (Sir R. Wilson) must be perfectly aware that, not being at the head of that (the Home) Department, he could not undertake for what might be done. But this he could say, from his knowledge of his Noble Friend (Lord Sidmouth), that he was as anxious that every possible assistance should be given for the purposes of justice as the gallant officer himself.

LORD JOHN RUSSELL made a few remarks, but in so low a tone as to be but very indistinctly heard in the gallery. We understood his Lordship to express his satisfaction, that notwithstanding the activity with which those seditious and inflammatory placards had been circulated within the last few years, and the great distress and privation of most of the lower ranks of people in that time, they had been productive of so very little effect, and that it should be a matter of consideration with his Majesty's government, that perhaps some of those unfortunate persons who were now suffering in prison for having been connected with illegal meetings might have been instigated by some of those placards.

Mr. HUME, in reply, said he did not intend to withstand the wisdom and experience of his friends, by pressing his motion, after what had fallen from them on the subject. He did not think, however, that the Noble Lord (Castlereagh) had met it in the manner which he ought. The Noble Lord ought, he conceived, to be careful when he made such charges as some of those which had that night escaped him. He (Lord Castlereagh) had said that libels more seditious and inflammatory than the placards alluded to by him (Mr. Hume) daily issued from the press of Wooler and Hone. Now, if that were true, it was a most severe charge against the conduct of his Majesty's Attorney and Solicitor General: because, if such monstrous libels daily appeared, it was their duty to prosecute them. But the fact was, that no such libels were issued by Hone or Wooler, and the Noble Lord only mentioned

it as a cover. No such libels were issued by any Radical committees. The parties engaged in issuing them were not known. With respect to the statements which he had that night submitted, they remained uncontradicted. The Noble Lord had not contradicted them, and they were borne out by the experience of some members. After some other observations, which were not distinctly heard owing to a noise which then prevailed in the gallery, Mr. Hume repeated the assertion, that Sir R. Baker had said that he had taken bail.

At the conclusion of this speech the motion was withdrawn.

### THE QUEEN.

Mr. BROGDEN brought up the Report of the Committee appointed to search the Journals of the Lords regarding the Bill of Degradation and Divorce.

### REPORT.

"The Committee appointed to inspect the Journals of the House of Lords, with relation to the present state of any Proceedings, including those of this day, had, respecting the Bill, intituled, "An Act to deprive Her Majesty Caroline Amelia Elizabeth of the Title, Prerogatives, Rights, Privileges, and Exemptions of Queen Consort of this Realm; and to dissolve the Marriage between his Majesty and the said Caroline Amelia Elizabeth;" and to make Report thereof to the House, have pursuant to the Order of the House, inspected the same accordingly, and find the following Entries:

*Die Martis, 17<sup>o</sup> Octobris, 1820.*

The Order of the Day being read, for the further Consideration and Second Reading of the Bill, intituled, "An Act to deprive Her Majesty Caroline Amelia Elizabeth of the Title, Prerogatives, Rights, Privileges, and Exemptions of Queen Consort of this Realm; and to dissolve the Marriage between His Majesty and the said Caroline Amelia Elizabeth;" and for hearing Counsel for and against the same;

Counsel were accordingly called in.

Then it was proposed, That the following Questions be put to the Judges:

1. If in the Trial of an Indictment for a Capital Offence, or any Crime, Evidence had been given, upon the cross-examination of Witnesses, examined in chief in support thereof, from which it appeared A. B. not examined as a Witness, had been employed by the party preferring the Indictment, as an agent to procure and examine Evidence and Witnesses in support of the Indictment, and the party indicted should propose, in the course of the Defence, to examine C. D. as a Witness to prove that A. B. had offered a bribe to E. F. in order to induce him to give

testimony touching the matter in the Indictment, E. F. not being a Witness examined in support of the Indictment, or examined before it was so proposed to examine C. D., would the Courts below, according to their usage and practice, allow C. D. to be examined for the purpose aforesaid, or could such Witness, according to Law, be so examined, if the Counsel employed in support of the Prosecution objected to such examination?

2. If in the Trial of an Indictment for a Capital Offence, or other Crime, Evidence had been given upon the cross-examination of Witnesses, examined in chief in support thereof, from which it appeared that A. B. not examined as a Witness, had been employed by the Party preferring the Indictment as an Agent to procure and to examine Evidence and Witnesses in support of the Indictment, and the Party indicted should propose, in the course of the Defence to examine G. H. as a Witness to prove that A. B. had offered him a bribe to induce him to bring to him Papers belonging to the Party indicted, G. H. not having been examined as a Witness in support of the Indictment, would the Courts below, according to their usage and practice, allow G. H. to be examined for the purpose aforesaid, or could such Witness, according to Law, be so examined, if the Counsel employed in support of the Prosecution objected to such examination?

Which being objected to;

After long Debate,

The Question was put thereupon:

It was resolved in the Affirmative: And the said Questions were accordingly put to the Judges:

The Judges desiring Leave to withdraw for a time, to consider of the said Questions: And Leave was granted accordingly:

The House was adjourned during pleasure:

The House was resumed:

The Judges being returned, prayed for Leave for further time to consider of the said Questions till To-morrow.

Ordered, That the Judges do deliver their opinion upon the said Questions To-morrow.

Then it was proposed, That the following further Question be put to the Judges, viz.—

Supposing that, according to the Rules of Law, Evidence of a Conspiracy to suborn Witnesses in support of any Prosecution ought not to be admitted, except such as directly applies to a Prosecutor, or an Agent employed by him, general Evidence of such a Conspiracy may not nevertheless, in the first instance, be received as a preliminary step to affecting the Prosecutor himself, or any Agent employed by him; and whether the same Rule would not apply, as to receiving Evidence from a Defendant indicted, seek-

ing to establish the Existence of a Conspiracy to suborn Witnesses against him?

The same was agreed to, and the said Question was accordingly put to the Judges; who desiring time to consider the same;

Ordered, That the Judges do deliver their opinion upon the said Question To-morrow.

Ordered, That the further Consideration and Second Reading of the said Bill be adjourned till To-morrow.

Report to lie on the Table.

LORD CASTLEREAGH rose to move a further adjournment of this house in consequence of the report, and he said that he should do so very shortly, reserving to himself the right of offering hereafter any argument in favour of his proposition. It had been his original intention to have proposed a further adjournment to the 10th of November, under the impression that before that date the bill now in the House of Lords would have been sent down to the Commons, or rejected altogether. In consequence, however, of what had recently occurred, he apprehended that the prospect was in some degree altered, and he should suggest the 23d of November as the day to which the house should adjourn, accompanying that adjournment with an order, that on that day the house should be called over. If the Bill of Pains and Penalties did not come down to this house, the order for the call perhaps need not be enforced. He moved, therefore, that the house, at its rising, should adjourn until the 23d of November, and that on that day the names of the members be called over.

Sir GERARD NOEL objected to the adjournment altogether, on the ground that it was unfit that the house should so long neglect the public business. He moved as an amendment, that the house at its rising should adjourn till to-morrow.

Mr. P. MOORE seconded the motion.

Mr. TIERNEY agreed with the Hon. Baronet that the proposed adjournment was much too long, but he could not support the amendment for the sitting of the house to-morrow. The conduct of the Noble Lord was somewhat extraordinary: why he should recommend a longer adjournment than he originally intended, because the bill in the Lords had made a further and a considerable progress, was beyond his (Mr. Tierney's) comprehension. The Noble Lord might know what was passing elsewhere better than himself, but when it was found that the printed minutes already amounted to about 900 pages, it seemed not a very hasty conclusion to suppose that the Lords were advancing towards something like a close of their labours. The Noble Lord, notwithstanding, advised an adjournment of no less than five weeks. On a former occasion he (Mr. Tierney) had thought it proper that a reasonable time should be granted, not

thereby meaning in any respect to pledge his opinion in favour of the bill: the Noble Lord with great candour had allowed that reservation, but he (Mr. Tierney) felt the strongest objection to a delay so long as till the 23d November. What was it but making the Commons absolutely subservient to the Lords? (*Hear.*) What was it but showing the people that this house was perfectly indifferent to that which now agitated the public mind to an extent perfectly unprecedented? (*Hear.*) Suppose the calculation of the Noble Lord turned out to be wrong—suppose the House of Lords terminated their labours in a week—was the Queen to be kept in suspense for a whole month because this house had been adjourned? If the Noble Lord could inform the house that the Bill of Pains and Penalties would never be heard of more in this place, then he (Mr. Tierney) was ready to adjourn, not merely to the 23d of November, but to the 23d of January. The Noble Lord had said that if the bill were thrown out by the Peers, the order for the call need not be enforced; but surely even in that event there would remain many matters to be discussed of a most serious character. The Noble Lord must forgive him for saying, that in the public mind there existed a general indignation against ministers for the pass to which they had brought the country. (*Cheers.*) It would be no adequate satisfaction to the nation to be told hereafter, that the Lords, in the exercise of their discretion, had thrown out the bill—that the nuisance had been got rid of, and that no man was now responsible for the condition to which the kingdom was reduced. He (Mr. Tierney) asserted that ministers were deeply responsible (*hear*)—that nothing could or ought, to screen them, not only from public indignation, but from public punishment, if they failed in making out a clear unequivocal case against her Majesty, such as no man could doubt. (*Continued cheers.*) If their case fell short of that, they had trifled with the public. On a former occasion he had said that Ministers must either betray the King or insult the Queen; but if they did not succeed in this desperate project, they would do both. (*Hear, hear.*)—One important question must arise respecting the body in which the whole case had originated—the Milan commission, the conduct of which, at all events, must one day be investigated. He knew that Ministers, by a side-wind, had endeavoured to inculcate a belief that the Milan commission was totally independent of the King's servants—that it arose from another quarter. He did not believe it, and the less on account of the dexterity they displayed in trying to shift the weight from their own shoulders. Its appointment had been, to all intents and purposes, the act of the Government; and for its acts Government was most deeply re-

spensible. (*Hear, hear.*) All he asked was such a reasonable adjournment as should put the House in a situation not to lose time in investigating the subject: a fortnight from the present day seemed to him ample time; for he it recollected, that independent of the Queen's trial a great deal of public business remained to be performed. The last session, in consequence of the threatened inquiry, had been a mere blank as applied to public business; and were members to shut their eyes to all the exigencies of the public service because it seemed good to the Noble Lord and his friends? It was easy to see that it might be very inconvenient to the Right Hon. Gentleman on the other side that the House of Commons should be sitting while particular transactions were in a course of investigation elsewhere; but was this to be set against the inconvenience the public must sustain? The assembling of the House a fortnight or three weeks hence might be a great advantage, even if it were unaccompanied by a call: the call might be fixed for the 23d November, but he should propose an amendment, that the adjournment be only for a fortnight. If it were otherwise, the House of Commons would stand before the country as almost the only body of men totally indifferent to the progress of the measure in the House of Lords, and adjourning to a distant day merely on the suspicion of the Noble Lord that the further the Peers proceeded with the Bill before them the further they were from the end of their labours. (*Hear.*)

LORD CASTLEREAGH thanked the Right Hon. Gent. for the candour with which he had met the question: he would as fairly state the grounds upon which he differed. The calculation he had made was founded on nearly the same *data* and principles as that of the Right Hon. Gent. He was perfectly ready to admit, whatever might be the issue of the Bill, that a great variety of questions might arise out of it requiring the serious attention of Parliament; but he knew of no instance where a great public topic was ever passed over for want of a favourable opportunity of discussing it in either House. The Right Hon. Gent. would probably allow that those questions, be they what they might, collateral or immediate, ought not to be introduced but with such an attendance of members as should give to the House all the gravity and influence belonging to it. It was quite correct to state that he (Lord Castlereagh) now proposed a longer adjournment than in an earlier stage of the proceeding; but for this obvious reason—that, before he had looked simply at an adjournment, and now he combined with it the question of a call. He could not well give less than a fortnight or three weeks to the course of the case, as it was at present circumstanced in the House of Lords. He did not foresee, that in less than that time the

Peers could have brought their proceedings to a close, allowing them a week or ten days for the remainder of the evidence, and the remainder for the discussion of the different stages of the Bill. Upon this point there could be no difference of opinion—that it was desirable to discuss the various measures in a fuller house than would probably be obtained if merely a question of adjournment were expected. In naming the 23d of November, he had selected a period which, after the supposed close of business elsewhere, would give members at a distance due notice of the period when their presence would be required. Any intermediate adjournment would only give unnecessary trouble, especially if that adjournment were unconnected with a call. He looked at the subject very much with the view of the Right Hon. Gent. viz. that out of this proceeding would naturally grow discussions that ought to be conducted with a full attendance; and upon the whole it appeared to his Lordship that by far the more convenient arrangement was that which he had suggested.

Mr. TIERNEY observed, that the whole depended upon a balance of conveniences and inconveniences. The House of Lords might or might not be occupied for three weeks upon the Bill before it; and supposing the House adjourned till the end of that time, and a call were fixed for the day of adjournment, the only inconvenience would be, that members would be required to attend needlessly for 3 or 4 days. The inconvenience would be much more considerable by a postponement to the 23d of November; for then members would be morally sure that they would be obliged to spend their whole Christmas in London. If the Bill came down from their Lordships, it might occupy a great deal of time; (Mr. Brougham) we believe, said 10 years; his Hon. and Learned Friend said it would occupy 10 years: but he (Mr. Tierney) did not think that perhaps more than nine would be consumed by it; but the utmost inconvenience members would sustain by an adjournment, and a call at the end of three weeks would be, as he had said, an attendance for three or four days. Such was his view of the question; but, at the same time, he should be glad to hear the opinions of other gentlemen upon this point, who, from residing at a distance, might be better judges upon the question of inconvenience.

SIR W. D. CRESPIGNY concurred in the amendment, and hoped that the Noble Lord had some further reasons for the long adjournment proposed. He might be able in the interval to get rid of the bill *in toto*, and such a step was advisable, if the safety of the country or the safety of ministers were at all worth considering.

Mr. CREEVEY trusted that his Right Hon. Friend would forgive him for saying that



he had met this question in rather a strange way. He little expected that he would have talked of the private convenience of members instead of meeting the subject with some expression, on the part of the House, of an opinion, that it never would permit the Bill of Pains and Penalties to enter its doors.—(Cheers) It was a most strange view, and at the same time, a most melancholy one, that those who were the guardians of the law should appear to be the only insensible body upon this important question. The petition this night presented from Plymouth spoke clear and intelligible language upon the subject; and was the House of Commons to learn what was due to the laws and constitution from the inhabitants of a distant seaport? (Hear.) When the Bill was first brought before the House, or rather when it was first mentioned, it seemed to the comparative few who were present, that the best mode of meeting it was to have an address to the King to prorogue Parliament, that it might be got rid of altogether. But the alteration which had taken place very recently in the course of the trial, now made it not only improper, but impossible to move such an address. When the trial began, if trial it could be called, it was the trial of the Queen, but within the last two days it had become the trial of a conspiracy, by the government of the country against the Queen. (Loud Cheers.) For this reason, if no other, he did not wish now to address the crown to prorogue Parliament.——(Mr. W. Pole smiled.)—The Right Honourable Gentleman might smile with great self complacency; but if he had attended in the other house, it was singular that he should seem so cheerful. Had he heard the questions referred to the Judges, and the technical objections which had been raised in all directions to prevent the Counsel from arriving at the truth? (Hear.) It might be well for him to smile now, for it was difficult to say how long it would be possible for him to do so. He (Mr. Creevey) was much distressed that it should fall to his lot to urge these matters, they ought to have been in better hands, and not to have come from him who served merely in the ranks; he regretted that those who usually led on these occasions had left him to advocate the public cause. (Cheers.)—The Bill before the Lords, whether the Queen were the object of it or not, was the most infamous in its nature that could be imagined. In former times Bills of Pains and Penalties had always the apology of conflicts of different claimants to the throne; this was the case of Bishop Atterbury, Sir John Fenwick, and Lord Strafford: but here was no conflict unless between the people and the supporters of this Bill; though he believed in his conscience that there was but one human being in the country who was heartily in its fa-

vour.—Another excuse for these Bills of old had been a crime known to the laws of the land—treason; but in this case it was not even adultery, but adulterous intercourse, though adultery itself was merely a civil injury, and for which only under particular circumstances could reparation be obtained. Adultery was no crime known to the law of the land, nor could a Queen or any other individual be prosecuted for it. Not more than 20 years ago a bill had been ineffectually brought in to render it a crime, yet now an attempt was made to punish a Queen as if she had offended against the law. He (Mr. Creevey) would say, as Lord Digby had said in the case of Lord Strafford, “God keep me from passing judgment upon a man for an *ex-post facto* crime;” adding, what he (Mr. Creevey) would add also, “Let the mark be set on the door where the plague is, and let him who will enter die.” What he felt on this subject was felt by all; one sentiment pervaded all classes and all ages; as far as the bill had gone, it was impossible to look at it not only without abhorrence but without absolute contempt. (Continued cheers.) In the first place it contained an allegation of the Queen’s indecent conduct in all parts of the world; she had carried on an adulterous intercourse in no fewer than three quarters of the globe; and in support of this was brought forward the wretched perjured evidence, which, strained to the very utmost, only amounted to one scene on the deck of a polacre, which was capable of a most easy and natural explanation. (Much cheer.) So help him God, he thought the Queen as innocent of crime in this particular, and in all others, as the most spotless female the world ever produced. (Continued cheers.) He did not believe that there was one word of truth in all that the miserable Italians had been bribed and persuaded to swear. The next allegation, on account of which all England had been put in motion, was that the conduct of the Queen had degraded the character of the country—that the morals of the nation were at stake—and a fastidious court—so pure in itself, and so anxious for the purity of all the rest of mankind—(Cheers)—was to drag the British Parliament through the dirt and filth of this inquiry—to divorce and degrade the Queen—under the pretence that the national honour had been tainted and sullied by her deportment! Most fortunately for that national honour, not a single English witness had been called who did not swear that, so far from degrading the country, they had never seen in her conduct any thing in the slightest degree indecorous or derogatory. But the fastidious court—the delicate and scrupulous court—the pure unblemished court—had found one ally, one poor solitary witness, who had sworn that the refinement of his moral sense was such that he had been induced to withdraw his innocent nephew from



the contagious sight of the Queen of Great Britain. (*Repeated cheers from all sides.*) He hoped that her Majesty, who had evinced some little courage in facing and daring her enemies, would have sufficient fortitude left to bear up against the shock of this dreadful imputation, from a person at once so antediluvian in his morals, and so disinterested in his testimony. (*Hear, hear.*) A third point contained in the preamble was that the Queen had violated her duty to the King; but what duty did she owe to one who, under his own hand, had confessed that he had turned her out of doors? (*Cheers*) That she owed allegiance to the King as his subject was not to be disputed, but that she owed duty to the King, he (Mr. Creevey) most strenuously denied, nor would he be any party to try her for a supposed breach of it. Yet this House as well as the Lords was to be driven into the inquiry; but, without power to administer an oath—without judges to assist it in point of law—with the public opinion on the score of corruption and influence most decidedly against it, he hoped it would never consent that in such an assembly the Queen should be put upon her trial. For himself, he felt a perfect horror at the bare notion of it; nor was his shame less that, while such a topic was presented, the private convenience of the members had this night been the only subject of discussion. (*Hear.*)

Mr. TIERNEY explained, asserting that he felt as warmly as any man the constitutional objections to Bills of Pains and Penalties: the principal difference between him and his Hon. Friend who spoke last being that he (Mr. Tierney) was able in some degree to restrain and keep down his feelings. Yet he knew nothing of the evidence; it had not come before him as a member of parliament; but at all events he could not approve of the summary mode in which it had been proposed to get rid of it by a prorogation of Parliament. Had he been in the House when it was moved he should have voted against it. He begged clearly to be understood that it was not because he did not express his opinion at present that he was to be supposed to feel less warmly than others upon this subject. (*Hear.*)

Mr. SCARLETT feared lest his silence should be misinterpreted, or he would not have claimed the attention of the House. He did not intend to enter into a discussion, but he begged to state, that he for one would never, on any public grounds yet promulgated, consent to pass a bill of Pains and Penalties. (*Hear, hear.*) One observation on the proceedings of the Peers he was entitled to make: by the report on the table it appeared that certain questions had been put to the judges, which showed that the other House had been engaged in an inquiry of a very suspicious nature res-

pecting the collection of evidence by dishonourable means, until it was stopped by an objection from the counsel for the prosecution. He could only say, that if he had been counsel for the prosecution against the meanest subject in the realm, and had been told that the defendant possessed the power of proving that some of the testimony had been obtained against him by corrupt practices, though he could not perhaps bring it home directly to the prosecutor, he should think that he (Mr. Scarlett), did no honour to his client if he interposed an objection to its production. (*Loud cheers.*) If any suspicion of the kind existed in a penal proceeding, to end in the degradation of an individual, he should hold that he betrayed his duty to a public prosecutor, if he interposed an objection to evidence to remove or confirm that suspicion. (*Hear.*) If such would be the line of his duty in a private case, how much more did it become the character of the government employed in establishing a charge against the Queen of the realm, before a branch of the legislature, and by the public officers of the crown. If, after this experiment, the bill were passed in the Lords, it would disgrace and degrade the House of Commons to receive it. If there existed a set of men whose object was to degrade the most sacred institutions of the country, and to bring into contempt what had hitherto been revered, they could not adopt a more effectual method than that which ministers were now pursuing. (*Hear.*) It would not be parliamentary to suppose that government or any member of it designedly entertained such a project, but no mode so effectual could be concerted for bringing destruction upon this once mighty country, and for making the most hallowed part of the fabric of its constitution the object of contempt and calumny. Who could doubt now that the question was between the Queen of England on the one side, and his Majesty's Ministers on the other? (*Hear, hear.*) He, for one, never approved of the introduction of the sacred name of the King in the discussion upon this business. He could never bear to hear the name of Majesty used with this irreverence. This measure must not be called the measure of the King. Against such language he must raise his loudest protest: it was, like all other public acts, the measure of ministers, and as such it must be judged (*Loud cries of hear, hear,* in which that from Lord Castlereagh was most conspicuous.) He must beg leave once more to enter his protest also against the interposition of technical objections in the progress of this grave and serious enquiry. He could never be brought to believe that a grave and revered tribunal, to which he had been ever taught to look up as the sanctuary of justice, would for a moment object to enter upon the fullest inquiry into the conduct of every witness who

gave testimony at its bar—least of all in a proceeding of this kind, which he would contend was not judicial, but legislative. He begged pardon for having thus trespassed upon the attention of the House, but he was impelled to do so by the great importance of the subject which now agitated the country, from one end to the other, to a greater degree than it had ever been agitated on any previous occasion. (*Hear, hear.*)

Mr. WM. COURTENAY felt as much impressed as any man with the impropriety of being drawn into any discussion upon this subject at this premature period; but he could not in silence hear one set of gentlemen arrogate to themselves all purity of principle, and deny it to those with whom they differed upon political topics. Let them pause, and see whether, in the case in which they were involved, there were any grounds for all this reprobation so unsparingly heaped upon their course. What was the course of that proceeding? Reports of a most degrading nature respecting the Princess of Wales. (*Loud laughter*) If gentlemen who opposed his views refused to listen to any thing at variance with their own preconceived opinions, then there was an end to all freedom, or, indeed, utility of debate. (*Hear, hear*) Reports of a degrading nature respecting the conduct of the Princess of Wales had reached this country; and, putting out of view all the statements of Italian witnesses, it was said that an English lady of high rank and character had been obliged to withdraw herself out of the Queen's society in Italy. These statements called for inquiry, and the step taken was the natural and proper one. A commission—that much abused commission—was sent out in consequence. Steps were taken by it to investigate the truth of these reports. Persons had been sent out intrusted with this commission, and he wished particularly to mention one of them, Mr. Cooke, whose name had been the subject of abuse as unfounded as it was ever undeserved by any man. Mr. Cooke, who was the object of abuse so liberally bestowed on him, had the superintendence of these inquiries. If ministers had any sinister object to pursue by this inquiry, as had been insinuated, was it likely they would have selected as their agent a Gentleman who could never be made a subservient tool, whose situation placed him above all suspicion—a man who had long been engaged in the active pursuits of a profession, from the duties of which he was recently compelled by ill health to retire? Mr. Cooke had nothing to gain by being the tool of any set of men: his competent means rendered him superior to such an imputation. He was a man who had started in the same profession with a Learned Gentleman opposite, who had not hesitated to make him the object of his invective, though that Learned Gentleman might well barter his political fame for the unsullied

purity of Mr. Cooke's professional life.—The real question was, did the circumstances justify Ministers in recommending this inquiry? Would there have been no impropriety in permitting a person to remain Queen-Consort of this realm, to whose court their wives and daughters were to be introduced, if she remained the object of so much degrading insinuation?—But it was said that technical obstacles should not have been interposed before that tribunal. Gracious God, what a mode of reasoning was that! Were the Lords immediately to adopt any course prescribed upon every vague insinuation, however groundless—upon every rumour, however unsupported? Surely that was too much to expect from any tribunal. It was said that the Italian witnesses were suborned, and perjured. If this observation were true, it must be taken in a general sense; and he believed there were some of those who did not hesitate to make the insinuation for partial purposes, who would shrink from admitting its general application. He was also one of those who could not suffer it to be nightly re-echoed by the gentlemen opposite that the universal sense of the country was consonant to their view of this grave and serious subject. He, on the contrary, from his own particular and careful observation, under circumstances well calculated to throw a light upon the general feeling, firmly believed that the tide of popular sentiment was taking a turn against the opinions of the gentlemen opposite. (*Loud cries of hear, from the opposition benches.*) Notwithstanding that cheer, he would repeat his assertion that the tide of popular feeling was on the turn, and that the people were coming to a more sober and rational view of the subject. The result of the pending investigation he should not anticipate; but, be it what it might, he was satisfied that the people of the country would eventually feel that the investigation itself was unavoidable, and necessary for the honour and dignity of the nation.

Mr. CALCRAFT said, that he meant to have complimented the Hon. and Learned Gent. on the bold and manly course he had set out with taking, in defiance of popular feeling; but he found, in the progress of the Hon. and Learned Gent.'s speech, that he must abandon this intention; for it seemed that, so far from having this boldness, he had happily and judiciously selected the favourable moment when he was to have the tide of popular feeling with him, and when he was to sail down its course with triumphant exultation. (*Hear, hear, and laughter.*) For his own part he must say that, in the discharge of his public duty, he did not presume to know at which side of a question the tide of popular feeling ran. He always felt it to be his duty to take the course which his own judgment and sense of principle suggested as becoming a representative of

the people in Parliament. But if he were to judge of the current of popular feeling on the question now in agitation, he should say that, so far from the tide being about to turn in favour of the Hon. and Learned Gentlemen opposite, the universal feeling was decidedly hostile to the pending investigation, and more particularly at the present time, and that so far from thinking it either proper or necessary, the people looked upon it as a violation of the best institutions of the country, as an outrage upon the laws of the land, and felt that the House of Lords have embarked in a course in which they could derive no aid from either human or divine law. (*Hear.*) The public feeling upon this occasion was, indeed, as it in general would be found when fairly collected, honourable to the morals and character of the middling and humbler classes, from whom it emanated. They looked at the situation of their Queen with a right feeling; they bore in mind that when she was cast loose upon the world, without guide or protector, she had the permission and assurance, as far as it could be given, though he knew that any such permission was nugatory, that no advantage would be taken of her conduct, as in the case of an ordinary woman. (*Cries of no, no, from the ministerial benches; and of yes, reiterated from the opposition.*) He repeated that she had received such an assurance that her conduct would not be looked at, as if she were in the ordinary relations of a female in private life. (*Hear, hear*) Those who, after giving such an assurance, could collect together and act upon reports, be they what they might, could, he thought, derive little consolation from reflection. That commission (the Milan) would for ever remain a blot in the annals of the country. (*Hear.*) It was not the best advice a Minister could give his Sovereign, after such a communication had been made to a lady, to beset her with systematic watchfulness, even if it could be done by less censurable means than those which had been resorted to. Was it decent, was it manly, to pry into, to watch, to sift, the domestic concerns of a deserted and disconsolate woman; and then afterwards arrange and embody evidence so procured into a grave and formal charge, to be legislated upon in a tribunal in a form and manner which, he repeated, could derive no sanction from any human or divine law? Whoever advised the Monarch to embark in such an inquiry did an injury to that monarchy, which, if he revered, he must for ever lament the longest day he lived. Never was the public sense so generally and unequivocally manifested as upon this occasion. It was impossible to observe it without admiring the general character of the people. (*Hear.*) He had, during the adjournments, week after week, refrained from expressing any opinion upon the case now under inquiry. The *ulti-*

mato issue of guilt or innocence would have no weight with him, feeling, as he did, the most invincible repugnance to entertaining such a question—a question which nothing upon earth could for one moment induce him to entertain. The House of Lords was the last Court of Appeal in the kingdom, and in the strict exercise of its jurisdiction, as such, the place of the greatest confidence.—It had now, in its grave deliberations, the assistance of the Lord Chancellor and the Judges, it had the power of conducting the investigation with all the solemnities of an oath; but the Commons should recollect that they had no such power. They could counterbalance this, perhaps, by having 658 judges, including the fine paid advocates with their juniors, who were, of course, to be their guides upon legal points during the investigation. (*A laugh.*) So that, by this proceeding instead of the House of Lords being the court of final appeal, the House of Commons were to become such, without any of the necessary qualifications for that purpose. Was this the way to try the Queen of England? Nothing ought to have induced administration to have embarked in it; but it was a question of office, and any thing rather than lose their places. Had they had the firmness to hold out but one half quarter without their salaries, they might have kept their places on their own terms, for nobody would have had the boldness to become their successors. In his conscience he believed that the whole question arose out of the ambition of one man to become Chancellor, and the desire of another to retain his situation. The Vice-Chancellor wanted to become Chancellor, and the Chancellor had not the courage to go out until he had completed his million. (*A laugh.*) He did not mean to undervalue that gentleman, he was his nearest country neighbour, and a sporting man he was (*loud laughter*), but his politics had done much mischief. If the Queen would have stayed away, ministers would have escaped this difficulty. They hoped she never would have come, and, relying on this hope, one of them in an unlucky hour pledged himself to introduce the proceeding if she ever came to England. (Lord Castlereagh here shook his head in dissent.) The Noble Lord might shake his head, continued Mr. Calcraft, but he knew all this to be the fact. He (Mr. Calcraft) was convinced that he (Lord Castlereagh) was now consoling himself, when he called for a month's adjournment, with the well-founded hope that the bill could not live a fortnight longer in the Lords, and that it was better to let its failure blow over for a fortnight before he met them again, rather than, by a short adjournment, run the risk of meeting them the moment his bill fell to the ground. The Hon. Gent. here referred to the proceedings in the other house, which he said he had watched from day to day, and

which confirmed him more and more in his opinion that the bill ought not to be for a moment tolerated. Much mystery hung over the acts of the agents. He did not mean to attack Mr. Cooke; but if he knew that gentleman, he should certainly regret his having undertaken such an office.

The CHANCELLOR of the EXCHEQUER defended the character of his Noble Colleague (the Lord-Chancellor), whose public conduct in the administration of justice stood so conspicuous, and free from every personal or political influence. The Right Honourable Gentleman defended the term of adjournment proposed by his Noble Friend. Though the house met earlier, it could not enter with the requisite calmness and deliberation on the consideration of public business, while the great question regarding the Queen was pending.

Mr. CALCRAFT explained. He had said nothing against the conscience of the Lord-Chancellor as a Judge; he spoke of him merely as a politician.

LORD FOLKESTONE said, that, with the exception of the Hon. and Learned Gent. opposite (Mr. Courtenay), the friends of ministers seemed to imitate ministers themselves in abstaining from all observations on the merits of the Bill, for the decision of which they had been watching the proceedings of the other House. The Noble Lord who proposed the adjournments had limited himself to the discussion of whether it should be three weeks or five. He (Lord Folkestone) was not surprised that, on the present occasion, ministers should wish to evade the merits of the Bill, and make the question before the House merely one of time; and he was therefore the more obliged to his Hon. Friend (Mr. Calcraft), who had entered on the essential question itself, and had thus given him (Lord Folkestone) an opportunity of expressing his opinion. Nothing could give him greater pleasure than to hear the abhorrence expressed by his Hon. Friends at the Bill of Pains and Penalties brought forward against her Majesty, and at the whole course of proceedings with which it was connected. (*Hear, hear.*) The objections stated to the Bill, on the side of the House on which he sat, appeared unanswerable; and in fact no attempt was made to answer them. But, leaving out of view altogether the circumstance now generally believed, and he thought on strong grounds, that these reports themselves originated in a conspiracy against the character and honour of her Majesty, the course adopted was the very worst that could be devised, for allaying them, or removing from the nation the disgrace which it was pretended they inflicted on it. For what was the consequence of the Milan commission, and of the means taken to inquire into those reports? The consequence was, not to prevent the mischief, not to punish the crime,

not to remove the disgrace, but to invite false testimony, and to publish our shame to the whole of Europe. (*Hear, hear.*) This was the plan adopted to protect the honour of the crown, to secure the reputation of the country, and to do justice to the honour of the Queen. (*Hear, hear.*) And, as if to render all the machinery necessary, the Queen was advised, through the medium of a Right Hon. Gentleman who acted for ministers, to leave the country. (*No, no.*) He repeated that her Majesty was advised to leave the country by a Right Hon. Gent. who had since delivered his sentiments of respect towards her in this House—a gentleman who, from those sentiments, might have been supposed one of her Majesty's defenders—a gentleman who was not now here, and who had gone from his duty God knows where (*Hear, and a laugh.*) But if the Queen had disgraced the country abroad, why not have taken steps to bring her home, and to have punished her? Instead of pursuing this course, they were found offering her a large bribe to stay away, and to parade our dishonour in the face of Europe. Such was the method which ministers took of consulting the honour of the crown and the fame of the nation. He (Lord Folkestone) would now say nothing of the proceedings of the other House, any farther than that they gave him an opportunity of addressing an observation or two to the Noble Lord (Castlereagh). It was admitted by the Ministers of the Crown in that House, that they were the prosecutors. The Noble Lord was the Minister of the Crown in this House, and should as such, have satisfied them of many things which he left untouched. He should have stated his opinion as to when the Bill would come down; whether it would come in its present shape, or in a modified form. He expected that the Noble Lord would have enforced his call of the House, without reservation, for the day of meeting. He had formerly said, that if this was a conspiracy against the Queen he would wish to probe it to the bottom. Evidence was now bearing in the other House, which tended to establish that conspiracy, and the Noble Lord ought to have enforced his call of the House, so to probe it to the bottom. His (Lord Folkestone's) opinion was, that the Bill would not come to the Commons, but that the conspiracy would be discovered. In either case, however, the call ought to be enforced, and if no other member undertook to do so, he himself (Lord Folkestone) would make the motion. (*Hear, hear.*) Thus he thought that punishment would follow men who had outraged the best feeling of the nation, and brought the peace of the country into jeopardy. (*Hear, hear.*)

Mr. W. POLE defended the conduct of government.

Mr. HOBHOUSE in allusion to an observation of Mr. Calcraft regarding the cha-



racter of the present Lord Chancellor, said that the character of a good judge and a bad politician, were by no means incompatible, as might be seen in the picture of Shaftesbury, as drawn by Dryden :

" Yet fame deserv'd, no enemy can  
grudge—

" The statesman we abhor, but praise the  
judge ;

" In Israel's court ne'er sat an Abethdin.

" With more discerning eyes, or hands  
more clean."

After some observations from Mr. P. Moore, and a question and answer between Mr. Creevey and the Chancellor of the Exchequer regarding the expenses of the prosecution of the Queen, the questions of adjournment to the 23d of November, and a call of the House on that day, were put and carried without a division.

Mr. BENNET wished to ask the Attorney-General if the witnesses could be legally detained for trial in case of perjury.

Mr. SCARLETT asked the Attorney-General where the courts were to sit in the ensuing term ?

The ATTORNEY-GENERAL replied, that he thought they could be accommodated in the Exchequer Chamber.

Adjourned at half-past ten.

## House of Lords,

WEDNESDAY, OCTOBER 18, 1820.

The Lord-Chancellor took his seat at ten o'clock, and after the usual forms the Council were called in.

The Lord-Chief-Justice rose and addressed the House, but in so low a tone, that only a few words of what he said could be heard at the bar. We understood him to state, that the Judges were agreed in opinion on the two first questions referred to them yesterday by their Lordships ; but that with regard to the third they had not yet been able to come to an unanimous decision.

A conversation now took place between Lord Erskine and the Lord-Chancellor, as to whether it would be advisable to hear the opinion of the Judges on the two first questions now, and to receive their opinion on the third at a subsequent period. Very little of this conversation was audible.

LORD ERSKINE wished the Judges to consider for a moment the third question before they gave their opinion on the two first.

The LORD-CHANCELLOR was of opinion that the Judges should not deliver their opinion on the two first questions until they had come to a decision on the last. His reason for this was, that there might be in all the three some connexion, which would render it convenient that their opinion should be given

at the same time on all the three. He knew that if he were, in the exercise of his duty as a Judge, called upon to consider these questions, it would be more satisfactory to him to have the opportunity of giving his opinion on all the three at once than separately. He, therefore, proposed that the Judges should be heard on all the three questions at once.

The Judges then withdrew.

LORD KENYON stated that Mr. Granville Sharpe, who had given evidence respecting the performance of the Moorish dance at Calcutta, wished to make a correction in a part of his evidence. He had, since he appeared at the bar, seen a letter or written document, which raised a doubt in his mind as to whether the Bishop of Calcutta was present at the exhibition of the dance. In answer to a question put across the table, the Noble Lord said he understood the bishop's lady was present. Mr. Sharpe was in attendance, and might now be called, if their Lordships pleased to hear his explanation.

MR. GRANVILLE SHARPE sworn:

The LORD-CHANCELLOR. — It has been stated to the House that you wish to make some correction in your evidence ; is that the case ? Yes.

Be so good as to state what the correction is ? I stated, when I gave my evidence, that the Bishop of Calcutta was present at the performance of the Moorish dance of which I spoke ; but since that time I have seen a letter, by which it appears that the Bishop was not present.

Have you any reason to suppose that you made a mistake with respect to any of the other persons you stated to be present ? I have not.

Was the Bishop's wife present ?—She was.

The witness further stated that the impression on his memory still was that the Bishop was present ; but that the written document he had seen made him doubt the accuracy of his recollection.

After a few observations by the Lord-Chancellor and Earl Grey, the witness withdrew.

Mr. Brougham begged that their Lordships, in order to save time, would now allow him to put in the two letters to which he had called the attention of their Lordships. The letters were those of the late and the present King to the Queen, which Mr. Brougham read at the close of his speech on opening the defence.

The Earl of Liverpool was sworn to prove the hand-writing.

Mr. Brougham said he was sorry to give his Lordship the trouble.

The LORD-CHANCELLOR.—What are the dates of the letters ?—One is dated



Windsor-castle, April 30, 1793; the other Windsor-castle, Nov. 13, 1854.

The letters were then put in.

**SAMUEL INMAN**, of the Navy-Office, Somerset House, sworn.

The counsel having withdrawn from the bar,

The LORD-CHANCELLOR observed, that it was proper some of the counsel on each side should be present while this witness was examined. They were accordingly called in.

The LORD-CHANCELLOR.—What papers have you got there?—Copy of the certificate of the service of Wm. Carrington on board the *Porpoise* and extracts from the ship's books.

Are they faithful extracts? Yes.

Have you the ship's books in your possession? I have.

The LORD CHANCELLOR inquired whether the counsel wished to examine the witness?

Mr. Denman said it did not occur to him that it was necessary to put any questions to the witness.

The witness then withdrew; and soon after the Judges returned from their deliberation on the questions which had been referred to them.

The Lord Chief Justice stated, that he and his Learned Brothers had deliberated on the questions submitted to them yesterday, and, having concurred in the answer to be given, had separated. This morning they again met, and, having compared their opinions on the subject, found that they still agreed. His Lordship then read to his Learned Brothers the opinion he had drawn up, as containing his own sentiments; and they, concurring therein, adopted it as conveying to their Lordships the opinion of all the Judges on the points to which it relates. Having the authority of his Learned Brothers, he should, with their Lordships' permission read the paper as the decision of the whole, though, for the reason he had already stated, it was expressed in the singular number.—The first question was as follows:—If in the trial of an indictment for a capital offence, or any crime, evidence had been given upon the cross-examination of witnesses, that A. B. not examined as a witness, had been employed by the party preferring the indictment as an agent to procure and to examine evidence and witnesses in support of the indictment; and the party indicted should propose in the course of the defence to examine C. D. as a witness to prove that A. B. had offered a bribe to E. F. in order to induce him to give testimony touching the matter in the indictment, E. F. not being a witness examined in support of the indictment, or examined before it was so proposed to examine C. D.

—would the courts below, according to their usage and practice, allow C. D. to be examined for the purpose aforesaid? or could such witness according to law be so examined, if the counsel employed in support of the prosecution objected to such examination? The decision of this first question was of the greatest importance to the equitable administration of justice. He had accordingly considered it with all the attention he could give to it, and with an anxiety proportioned to its importance, and it was not without considerable hesitation and fear that he now gave his opinion upon it to their Lordships. In order to judge of it fairly, the question ought to be put in the same light as if the parties were reversed, as if the kind of proof in question were offered to be produced on the part of a prosecutor or agent, and examined in support of the evidence in chief for the prosecution; but in coming to a legitimate conclusion, it would perhaps be right to consider such evidence as extrinsic to the case at issue. If it should be found that the evidence tendered related to matters foreign to the charge, though calculated to strengthen the impression of guilt as to the accused, it would not be admitted. And if such inference drawn in the one case was reasonable, he was unable to conceive why the rule thus made in favour of the defendant in one case should not stand against him in the opposite case. The consideration that an innocent man might in the same way suffer by casting discredit on his defence was important, and this consideration had enabled him to weigh the question with more calmness than he could otherwise have done, if the result had been to draw a line which would serve only for the protection of innocent persons. With regard to the question proposed by your Lordships, as to the corrupt acts of an agent, that agent not having been examined in the course of the trial, and no clear testimony having been produced of his agency from the cross-examination of the witnesses in chief for the prosecution, that question must be considered both as it is likely to affect the character of the prosecutor and the prosecution, the witnesses and their testimony. According to the question, a prosecutor was supposed to have procured or employed a person, as an agent, to collect witnesses, and to examine them. This was a practice which was necessary in most cases, which was always lawful, and which therefore could in no case be disgraceful. But as the employment of an agent was lawful, it was to be presumed that the means used by the agent were lawful also, or it would be necessary for the opposite side to prove that they were not lawful. According to the rules of law, no party was to suffer for the delinquency of his agent, he himself not having been implicated. It would therefore be unfair to allow an entrance to suspicion with

respect to the prosecutor, as it would be contrary to law and justice to suffer his case to be disgraced by the separate conduct of his agent. It was therefore perfectly consistent with these principles to consider a prosecutor as sometimes utterly ignorant of what was done under the name and colour of an agency under his direction. It was possible that the agent might enter into engagements or transactions which his principal would reject with indignation and repudiate with scorn. This, however, it might be impossible to prove at the time of trial. With regard to the witness himself, his testimony as to what had been unlawfully done ought not to be directly attributed to persons of known probity and of unimpeached character, merely because they stood in the situation of employers. The positive facts which might have occurred might have been intended to occur at other times and places, so as materially to alter their complexion. It was not difficult to conceive that a principal might be quite clear of disgrace, although his agent, from over-zeal, or any other motive, had conducted himself disgracefully. Such a case might naturally awaken suspicion; but suspicion alone was not a legitimate ground for the verdict of a jury. For these reasons he and his Learned Brothers were of opinion, that, in conformity to the rules of the courts below, the question could not be put to the witness; and this was their answer on the first point referred to them by their Lordships. He would, however, further add, that the matter propounded to him and his learned brothers was not a matter of abstract science, but one respecting the business of life, and the affairs of men. Very few cases occurred in practice, in which the judge, on trial, did not find room for some degree of doubt, according to the facts and circumstances produced in evidence before him. The question referred to them by their Lordships did not contain any statement of facts, any substantive case, by reference to which they could be guided in the formation of a decided opinion. The observation was made, not in the way of complaint, but rather as an explanation or apology for the terms in which he and his learned brothers had found it necessary to express their concurrent sentiments. They certainly did not mean to intimate that in no case whatever could evidence of this kind become legally admissible. With regard to the second question, it appeared to them that the reasons already adduced in answer to the first were equally applicable to this. A third had been also submitted to them. (Here the Lord Chief-Justice read the question, which was as follows:—"Supposing that, according to the rule of law, evidence of a conspiracy, by suborned witnesses, to support any prosecution, ought not to be admitted, except such as applies to the prosecutor or the agents employed by him—whether general evidence of

such conspiracy will not, nevertheless, in the first instance, be received as a preliminary step to connect the prosecutor himself, or any agent employed by him, with the conspiracy? and whether, by the same rule, evidence should not be received from the defendant, he seeking to establish in proof the existence of a conspiracy to suborn evidence against him?") The judges understood this to relate, in the first part, to the admissibility of general evidence, implicating a prosecutor or his agent in a charge of having entered into a conspiracy to suborn evidence; and, in the second, whether it was open to a defendant to offer evidence for a similar purpose.—Understanding the question as thus divided, and conceiving it to allude, in the first instance, to the subject of guilty participation, he and his Learned Brothers agreed that it was often necessary to admit such general evidence. But at the same time it was important to observe, that the general nature of the case was, in ordinary practice, opened to the court, and the connexion and relations of its different parts in some degree explained. It might become the duty of a judge to stop such general evidence, if he thought it unimportant or taking an irregular tendency.—With regard to the 2d branch of the 3d question, they were of opinion that evidence as to subornation was admissible, whenever it affected any person so as to lay him open to prosecution.

The LORD-CHANCELLOR moved that the opinion of the Judges should be entered on the minutes. Agreed to.

The Attorney-General said, that having been present, by the permission of their Lordships, during the delivery of the concurrent opinion of the Judges by the Lord Chief-Justice, he trusted he should stand excused for submitting a few observations. Whilst engaged in the discharge of a duty which had been cast upon him, he had understood, at its outset, that in the production and reception of evidence their Lordships had resolved to be guided by the rules of the courts below.—He hoped that in the discharge of a duty so anxious, and to him personally most painful, he should not be supposed to have acted improperly in having, the day before yesterday, interposed to offer an objection founded upon that resolution. The opinion of the judges, as he understood it, confirmed the validity of the objection as originally taken on a preceding day by his Learned Friend the Solicitor-General. If, however, their Lordships thought that the inquiry to which the question so objected to was pointed, was an inquiry that ought to be pursued, he, for one, would no longer object to it, but rest persuaded that its result would be to the credit of the Milan commission. Even although a *prima facie* case should be made out against the persons engaged in that commission, their Lordships, he was sure, would reserve to him the opportunity of rebutting hereafter

the evidence in support of it. At all events he felt conscious that he had throughout endeavoured to discharge with the best ability he possessed a most arduous and most painful duty.

The LORD CHANCELLOR inquired of the Queen's Counsel whether they had any thing to offer in reply to the Attorney-General.

Mr. Brougham said he could not undertake to state that he yet precisely understood the opinion of the Learned Judges, or the effect of the observations just made by his Learned Friend.

The EARL of LIVERPOOL thought that a few remarks might, perhaps, save the time of their Lordships. He was one of those who had agreed at the commencement that if they went out of the rules observed in the courts below, as to the reception of evidence, they would no longer have any distinct line to follow, and that a great deal of ultimate inconvenience would be found to attend the departure. With regard to the inquiry suggested, he had the most anxious desire that it should proceed. It was essentially different from that in which evidence was offered as to the conduct of an unaccredited agent: a qualified agency was here admitted—the agency of Vilmarcati. The substance of the opinion delivered by the Learned Judges was, as he conceived it, that the examination ought not to be pursued; but, as the Attorney General waved his objection, and the house, he was sure, would give him credit, as they would give credit to all the Counsel at the bar, for raising no objections which they did not at the time consider to be valid, it might be desirable that all the parties affected by the proposed cross-examination, so far as it had hitherto gone, should have a full opportunity of justifying themselves.

EARL GREY observed, that it now appeared that the question on which so much time and deliberation had been consumed was a question which ought to be put to the witness. He thought so too, but not for the reasons stated by the Noble Earl (Liverpool). If the opinion of the Judges was clear, and ought to govern their proceedings implicitly, there was a rule laid down from which the Noble and Learned Lord on the woolsack had himself frequently departed in the course of the present trial. The Attorney-General now waved an objection which he had before most strenuously urged; but this was not of itself a reason sufficient to induce him to deviate from any principle of law, or that was essential to the administration of justice. Admitting the anxiety of the Noble Earl (Liverpool) to bring this part of the inquiry to a conclusion—an anxiety which he was sorry had not displayed itself at an earlier period, because it might then have saved a great deal of useless discussion—he could not concur with him in the reasons which he

now offered for going into it. Whatever was the practice of the courts below, he was now more than ever confirmed in his opinion that the question ought to have been allowed to be put at once to the witness. The Learned Judges did not appear to him to have given a very satisfactory explanation of the points referred to them. In their elaborate answer they gave no distinct statement as to what was the practice of the courts below, but described the matter propounded to them as full of difficulty and doubt. It was not an answer indeed, but an elaborate argument quite unnecessary on this occasion, and affording no light on the general subject. He expressed his feelings as they arose out of a consideration of the general subject; and he must add, that there was this material defect in the answer of those learned persons—that it stated none of those facts or circumstances which were represented as likely to influence the decision of a judge when presiding at a trial. It was represented on their authority that the proposed course of examination might, on some occasions, be allowed, with the view of eliciting truth. Why, then, upon an occasion so little conclusive, so little distinct as to the usage of other courts—why, as had been so ably urged the day before, in the powerful and inimitable speech of a Noble Friend behind him (the Earl of Rosslyn) were they, under special circumstances, and in the most special and extraordinary proceeding, to exclude evidence so apparently important? He thought it right to state his view of this question; but, at the same time, he could not but feel glad that, for reasons, whether good or bad, there was an unanimous opinion that the examination ought to be continued. He now, therefore, moved that the examination should be resumed.

The LORD CHANCELLOR said, he felt it incumbent upon him to make one or two observations on this subject. When the question was first put to the judges he had endeavoured to call their attention both to the rules of law and to the practice of the courts below. It involved, however, a point perfectly new, and with regard to which no practice could be cited. It became, therefore, a point of mere law, and, as such, the judges had found themselves under an obligation of stating the grounds on which they formed their opinion. As to his own departure from rules previously laid down, he could assure their Lordships that no waiver of the Attorney-General would induce him to dispense with any objection which in his judgment ought to be maintained. But it appeared to him that the examination in this case, might, if pursued, lead to important disclosures, intimately affecting the merits of the case. Their Lordships were at liberty, as well as the judges, to consider what particular facts or circumstances might let in evidence of this description. The precedent

would then go no further, and could never be quoted in other courts of law hereafter, except as a proceeding founded on the peculiar and special circumstances of the case. This was the view which he entertained on this subject, and his opinion he would always state frankly, through good report and evil report, and he might, perhaps, deem it right to record it on this occasion.

LORD ERSKINE said he certainly required no waiver of the Attorney-General to convince him that the evidence in question ought to be received. It ought to be received on the ground of its essential importance to the elucidation of the truth. The answer of the Learned Judges did not amount to a negative of his proposition; it admitted that general evidence might be admissible, and it was difficult to say that one question might not produce evidence of a general nature as well as another. He contended, therefore, that he had the sanction of the Learned Judges for the proposition which he had at first maintained.

*BONFIGLIO POMARTI called and examined by MR. WILDE.*

After the latter part of his evidence on Monday last had been read over,

You have said that the advocate Vilmarcati told you to bring the papers of her Royal Highness to him; did he offer you any inducement for so doing? He told me he would procure me some employment, which should be of greater emolument than that in which I was then engaged.

Did he tell you what should be the nature of the employment? In the police of Milan.

Did you afterwards possess yourself of any of her Royal Highness's papers, and carry them to Vilmarcati in consequence of the inducement so held out?

The Solicitor-General objected to this as a leading question.

Did you do any thing with her Royal Highness's papers in consequence of this inducement? On the following day I took some to the advocate Vilmarcati.

Did he say any thing to you with regard to the time at which you were afterwards to call upon him? He told me to call in the evening.

Did he mention any time in the evening? Yes, after sun-set.

Did you, upon any other occasion, give any papers relative to her Royal Highness to Vilmarcati? I did.

For how long a period were you in the habit of taking her Royal Highness's papers from the solicitor, and carrying them to Vilmarcati?

The Solicitor-General objected to the form, though not to the substance, of the question.

Mr. Wilde.—I ask for how long a time the witness had been accustomed to place those papers in the hands of Vilmarcati?

The Solicitor General.—You have asked how long he was "in the habit" of doing so; that I apprehend is not the way to put the question.

Mr. Wilde.—On how many occasions did you take papers belonging to her Royal Highness and carry them to Vilmarcati? I don't know how many times.

Did you do it frequently? No.

About how often do you believe? Seven or eight times at the utmost.

Did Vilmarcati know, when you took papers to him, that you were a clerk in the office of Codazzi?—He knew, certainly.

Was it by his desire that you took them?

The Solicitor-General objected to this as a leading question.

By whose desire did you take those papers? at whose request did you take them? I don't know the man.

Had you any conversation with Vilmarcati about your taking them? He told me to bring to him those papers I could get.

Did you receive any thing from Vilmarcati for taking those papers to him? Money. (*A laugh.*)

How often did you receive money from Vilmarcati for taking to him her Royal Highness's papers? Six times.

Were you satisfied with the money you got from Vilmarcati? I was not. (*A laugh.*)

Did you ever make any complaints to any one that you did not get money enough?

The Solicitor General objected to this question as being too general.

Mr. Wilde. Did you ever make any complaint to Col. Browne that Vilmarcati had not paid you money enough for taking papers from your master to Vilmarcati? I complained once.

What did Colonel Browne say to you when you made that complaint? He told me that he was a friend to the advocate Vilmarcati, and I ought not to doubt that he (Vilmarcati) would pay me what he had promised.

The Solicitor General. The true interpretation is—"would perform what he had promised."

Did you, in consequence of that communication to Colonel Browne, make any further communication to Vilmarcati? Col. Browne told me to call again on the following day, and the advocate Vilmarcati would reason with me.

Did you call on Vilmarcati in consequence? I did.

Did you receive any more money from him? I did.

Where does Vilmarcati live at Milan? In the street of Nacchina.

Did he live in the same street when you took the papers to him? Not the first time.



Name the other place where he lived when you took papers to him? He was living in the Rue Bellavechi.

Do you know the number he lived at in the Rue Bellavechi? It was in a lane.

Where did Col. Browne live at the time of this transaction? Below the bridge, at the eastern gate.

Do you know the number? I do not.

To what subject did the papers relate which you took to Vilmarcati?

The Solicitor-General objected to parole evidence of the contents of those papers.

Mr. Wilde said (as we understood) that he had none of the papers to produce; they were in the possession of the other side.

Do you know whether those papers related to charges made against her Royal Highness at Milan?

The Solicitor-General objected to this question.

Do you know to what subject the papers taken by you to Vilmarcati related? Some of them.

Can you state to what subject those papers of which you have a knowledge related? One branch of them related to the depositions of the *femme de chambre*, who had been sent to Vienna, together with Sacchi; and on the road with Sacchi, she said they were going to Vienna, to—

The Solicitor-General objected to a statement of this kind.

Mr. Wilde.—I merely want to know to what subject related? They were letters.

Were there any examinations of witnesses? Not amongst those letters. They were letters of her Royal Highness, of the Baron, and others.

Were there, in these letters, any depositions or statements of the evidence of witnesses? There was not.

What other papers were given by you besides letters? There were some copies of letters of the Advocate Codazzi, which seemed to be answers.

Answers to what? The answers of Codazzi to Bergami.

Were there any other papers but letters and copies of letters? No.

Do you know to what subject those letters related? Yes, some of them.

State it—One was from Bergami, who said that he would—

The Solicitor-General here interrupted the interpreter. The general tenour, but not the particulars of the letter, might be stated.

Mr. Wilde.—State only what subject the letters related to.

The Interpreter, with strong emphasis, "They stop me my Lords. (*A laugh.*)"

The LORD-CHANCELLOR.—Then stop no longer, but go on. (*A laugh.*)

The Interpreter.—The witness states that there was one letter from Bergami, who said he would not return to Milan until he saw

that those persons who were without shoes before should go again without shoes.

The LORD-CHANCELLOR.—Let that question and answer be struck out.

Mr. Wilde.—The Solicitor-General objected to the answer, and I acquiesced in that objection.

The question and answer were struck out.

Mr. Wilde.—I want to know the general subject of those letters, not the particulars? The advocate Vilmarcati told me to bring to him those letters which related to depositions—that is, which desired somebody to come to give evidence.

Did you, in point of fact, carry papers relating to that subject to Vilmarcati? I carried letters, not papers.

Do you know a man of the name of Reganti? I do.

Did Reganti ever make any application to you about papers? He has been at my house to ask for them.

Had you any communication with Vilmarcati, with respect to the application Reganti made to you for papers?

The EARL of LIVERPOOL submitted that it must first be known whether Vilmarcati was at all acquainted with the circumstance of an application having been made.

Did you tell Vilmarcati of Reganti's application for papers?—I did.

What did Vilmarcati say on the subject of Reganti's application for papers? I then knew not Reganti, and I asked of Vilmarcati what sort of a man Reganti was? who he was? He told me that he was a person of condition, and that I should give him any papers.

What was the application which Reganti made to you respecting papers? What did Reganti ask you to do with the papers which you took? He said they were to be presented to him, and he would give me a great deal; much.

What papers did Reganti wish you to give to him? Papers respecting the affairs of her Royal Highness.

What affairs of her Royal Highness?—Those that were now in England.

What subject did the papers relate to?—He told me nothing else.

Did Reganti know in whose employ you were? He knew it, for he had come to my house. He came to me as the secretary of Codazzi.

Did Vilmarcati say any thing more about Reganti's employment? Reganti called afterwards to me, as the secretary of Codazzi, for I was that secretary.

Did Vilmarcati say any thing further as to the employment of Reganti? He told me that he was a person of character, and of condition; and he told me nothing else.



The EARL of LAUDERDALE was of opinion that this answer was not sufficiently specific. The person alluded to might have been represented as a man of low character and condition.

When did you first disclose to Codazzi that you had taken those papers? On the 27th of July.

In this year? Yes, in this year.

Was it in the year 1820? Yes.

Was that the first time that you informed Codazzi? It was.

You say you do not know the number of Col. Browne's house: can you describe the house? What sort of premises were they? Was there a shop? It is a house.

Is there any business carried on in the house? any goods sold there? There is a shop on both sides of the door.

What sort of a shop? What goods are sold in it on either side? On the left there is a tailor, and on the right a dealer in alabaster.

What business does Reganti carry on?—He sells tobacco and snuff.

Are there any shops near Reganti?—There are.

What are they? I don't know, for I seldom passed that way.

*Cross-examined by the SOLICITOR-GENERAL*

How long did you live with Codazzi? A year and a half.

Have you acted as his clerk all that time? Always.

Down to the present time? Till the 27th of July.

Then, on the twenty-seventh of July, Codazzi turned you out of his service?—

Mr. Wilde objected to the assumption of this fact.

Then, did Codazzi turn you out of his service on the 27th of July? He did.

Have you ever been in his employment since? No.

The Attorney-General.—The interpreter translated it "service;" "employment" was the word used. The witness might be employed without being a servant.

Then you mean to swear that, from the twenty-seventh of July, down to the present time, you have never been in the employ of Codazzi? I can swear it a thousand times.

With whom did you come over to this country? With the Chevalier Vassali.

Did you come over alone with Vassali, or with whom else did you come? There was another person.

Who was that other person? A certain Luca Maggiore.

After you had left the service of Codazzi, did you enter the service of the Chevalier Vassali? I did not.

Did you not come over to this country as

the servant of Vassali? I have not been in the service of Vassali.

I ask you whether you did not come over to this country in the character of servant to Vassali? No, because Vassali had a servant with him.

Did you never represent yourself, on any occasion, to be the servant of Vassali? No, never.

Did Vassali never represent you to be his servant, in your presence? Never.

Now, when was it that you saw Vilmarcati? In September of the last year.

Can you tell us about the time? I don't know the day.

Can you tell us about the time of the month? Towards the end.

Did you know Vilmarcati before? I did.

Did you go to Vilmarcati of your own accord, or what made you go to him? The employer with whom I was before had some money due to him—

I ask, when you went to Vilmarcati, towards the end of September, whether you went of your own accord, or what made you go there? There was a person who urged me to go, and that person took me there himself.

Did that person tell you what you were to go to Vilmarcati for? He told me that I ought to go because Vilmarcati wished to speak to me, and I should be made a gentleman if I went. (*A laugh.*)

Did he tell you how you were to be made a gentleman if you went? He told me so much—he told me no more. He told me to go, and that he would take me.

Did you know at that time that Vilmarcati was employed at all in the process about the Queen? (*Several peers called out her "Royal Highness the Princess of Wales."*) When I went I knew it.

Do you mean to say that you did not know it when you saw Vilmarcati? Did you not know it at the time you saw that person whom you have alluded to? I knew it.

You knew it when you saw that person? What about?

You told us that a person led you to go to Vilmarcati; I want to know, when you saw that person who wanted you to go to the advocate, whether you knew that Vilmarcati was employed about the process relative to her Royal Highness? I knew it.

Was Codazzi your master, at that time employed for her Royal Highness? He was not employed on the affairs of her Royal Highness in England, but for the affairs of her Royal Highness in Italy.

Did you know that Codazzi was in possession of papers belonging to her Royal Highness? I had them in my own writing desk.

Did you not then, immediately, as an honest man, communicate to your master that you received this message to go to Vilmarcati? I did not.

Did you not conceive it to be your duty to do so? I thought that it would not produce mischief: that it would do no prejudice: that it would do no harm to her Royal Highness.

Do you mean to say that you thought it would do no harm to hand over to Vilmarcati papers, letters, and documents, belonging to her Royal Highness? Documents I did not give; I gave letters.

Do you mean to say that there was no harm in handing the letters to Vilmarcati, without the knowledge of your master Codazzi? Yes, I thought it would do no harm.

Did you not think it your duty to tell Codazzi of it, that he might judge for himself whether there was no harm? I did not tell him.

That is no answer. I asked whether you considered it your duty to tell him? I believed it was nothing.

Do you mean by that, that you did not think it your duty to communicate it to your master? I thought it was my duty; but I neglected it. (*A laugh.*)

Have the goodness to tell us who this person was who carried you twice to Vilmarcati in the manner you have described? I don't know the person; if I knew I would tell him.

Will you tell us where you saw him the first time? In St. Salvador-street, near the theatre.

Did you meet there by appointment or by accident? By accident. I did not know him; but he stopped me, and asked me to go to Vilmarcati.

Did you not ask his name, and what he was? I asked him, and he told me it was no business of mine to know it.

When was it you saw him the second time? The following day.

Was it by accident you met him the second time? Yes, in the same place and the same street.

Was it the same hour? Yes; I was coming from the office, and he met me.

What, at the same hour? Yes, at the same hour.

Did he repeat the same question the second time? He told me also; he asked me if I thought of what he told me the day before.

What did you tell him upon that? That I thought upon it, and would not do it.

Did you see him a third time? No, I went.

After saying that you would not go, you went in fact? Yes.

Did you get his name on the second time when he urged you so much to do some-

thing? He would not tell me his name either then. I asked him.

Did you go to Vilmarcati alone, or were you taken by him? He took me as far as the door.

Have you ever seen that man since? I have seen him once, but not near in the face.

Had you no curiosity to know who he was? How can I?

I ask whether you had any curiosity to know him? If I could know him, certainly.

Did you follow him for that purpose the first or the second time? I did on the second.

Where did you follow him? As far as the door of Vilmarcati he took me, and then he went away.

Had you any papers in your pocket then? On the following day I took papers; then I had none.

Did you ever meet that person by accident again? I have met him, but did not see him in the face.

Was that once, or more than once? Only once.

Did you speak to him then? I did not see him in the face, I did not speak.

Is he young or old? Middle-aged.

Is he light or dark in his complexion? He has dark hair.

Is he stout, or how? A little stout.

How was he dressed? I am not a painter to draw a picture.

I ask you how he was dressed? (*With some hesitation*)—*Non mi ricordo.*

What do you mean by *non mi ricordo*? I don't know, I don't remember; I don't remember how he was dressed. He had a coat on, but I do not remember the colour.

Has any one told you that you should be cautious not to say *non mi ricordo*? I have heard it said about the town, and I asked what was *non mi ricordo*? (*A laugh.*)

Did not the Chevalier Vassali caution you against the use of that expression? No, he said nothing of it; nobody said so to me.

Has no one told you not to say *non mi ricordo*, but to say *non mi sou venu*, or *non so*, or *non si*? I know myself, without being told by any body.

Did Vilmarcati pay you any thing for the papers you delivered the first time? He gave me three double golden Napoleons, and told me that was for me to take chocolate.

When did you bring the second parcel of paper? After the month of September.

Will you tell, as nearly as you can, how soon that was after the first parcel you delivered? Three or four days.

What did Vilmarcati pay for the second parcel of papers? Four Napoleons single.

Did you go the second time in consequence

of being sent for, ~~and~~ made you go? I went of my own accord.

When did you deliver the third parcel? In the month of October.

About what time in the month of October? I am not able to recollect the day, but it was in the month of October.

Was it in the beginning, the middle, or the end of October? It was in the month of October. I cannot remember whether in the beginning, the middle, or the end of that month.

Did the advocate Vilmarcati pay you for the third parcel of papers? He paid me another time.

When did you carry him the fourth parcel? I carried him a paper as far as the latter end of November.

Was that the fourth time? I ask you when you brought papers the fourth time? I don't remember; it was in October or November.

Did you carry many papers at that time? Some letters.

Having carried papers from time to time to Vilmarcati, and having been paid for them by Vilmarcati, did you ever mention the circumstance to your master Codazzi? I never said any thing to Codazzi about it.

Do you mean to say that from September, 1819, till July in the following year, Codazzi never said any thing of the papers? No, he never did.

Did Codazzi never miss the papers? No.

Had he never asked for them on any occasion? No.

You have said that those papers were left in your charge or custody: I want to know whether you were not confidential clerk to Codazzi? Yes, I was confidential clerk.

Being confidential clerk to Codazzi, did you not think it most infamous conduct on your part to take those papers to Vilmarcati? Not at the beginning.

Now, as the beginning was in September, 1819, I ask you when light broke in on your understanding? [Some dissatisfaction was expressed at this question.]

The Solicitor-general.—I infer that, as he has said he did not think his conduct infamous at the beginning, he must have thought it infamous at some later period.

Mr. Denman.—for the sake of regularity, and for the sake of following the example of my Learned Friend, who often objected to similar questions, I object to the question, because it assumes that some light did break in upon the witness's mind.

The Solicitor-General.—I take a different course.

I ask, when you discovered (if you ever discovered) that this conduct was most base and infamous? About the beginning of this year.

I wish to know whether it was a discovery of your own that it was base and infamous,

or whether you were told so by another? There are many who act basely and infamously, but afterwards they repent, and so have I repented. (*A laugh.*)

Having discovered at the commencement of the present year that your conduct was base and infamous, did you not then think it your duty to communicate what you had done to Codazzi? I thought it better to be silent.

Having not only discovered that what you had done was base and infamous, but having sincerely repented of it, I ask you whether you had not thought that the best thing you could do was to tell Codazzi, that the evil might be repaired? I could not foresee all these things.

You have now told us, that in the beginning of the year you repented. I ask you when you delivered the last parcel of papers to Vilmarcati? I do not remember; in the end of November or the beginning of December.

Am I to understand, that you swear you did not carry any papers to the Advocate Vilmarcati after the end of November or the beginning of December? Before I swear, allow me to think of it. (After a considerable pause.) In the month of July, when I went to ask the name of a person who called at my house, Vilmarcati asked me the names of the witnesses in favour of her Royal Highness, and I gave a list.

I want to know whether you called on Vilmarcati in the month of July? Yes, to tell him that this person had called.

Was that the same person that met you in the street by accident? No: the one that met me in the street I don't know; but the person that called last is Reganti.

I ask you whether you then gave any paper to Vilmarcati of that kind? I gave him a list of persons going to set out.

Was that by desire of Signor Codazzi? No.

Do you mean to say that you gave a list of the witnesses in favour of her Royal Highness? Not all the witnesses.

[Some difficulty arising in understanding whether the witness meant a list of all the witnesses, and some who were not witnesses, or a list of part only of the witnesses, the question was repeated.]

Did you give a list of all the witnesses that were setting out for her Royal Highness? I did not give a list of all the witnesses.

Mr. Denman said that his Learned Friend was now examining as to the contents of a writing, which writing was proved by himself to be in the hands of Vilmarcati. He submitted that this could not be done without producing the writing.

The Solicitor-General said he was perfectly satisfied upon that point.

I understand you to say that you had not

communicated to Codazzi this list? I did not then.

Having repented as early as January, you afterwards, in July, delivered to Vilmarcati a list of the witnesses in behalf of the Queen? They were five or six; I wrote them; I gave them in myself.

Did Vilmarcati pay any thing for that?—No; I gave him this list to find out who the person was who called at my house.

You gave it to Reganti?—I did not give it to Reganti, but to Vilmarcati.

How long after that did Codazzi know of it?—On the same day; I told it to Codazzi on the same day I gave the list to Vilmarcati.

With the exception of the list, did you give any other papers to Vilmarcati after the end of November or beginning of December, 1819?—No.

Will you swear that positively at this moment?—I will swear it a thousand times.

Has Vilmarcati paid you?—Yes, at the beginning; afterwards, no.

When did Vilmarcati give you the last payment?—When Col. Browne sent for me, towards the end of March this year.

When before that?—About the end of November.

So that from the end of November to the end of March you received no payment?—Nothing.

Are you positively sure, and swear that?—I swear it a hundred times.

What sum did you last receive from Vilmarcati?—Fifty-two livres and a half of Milan.

Are you quite sure that was at the end of March?—I am.

Did you never on any occasion state that you did not receive money later than February this year?—No, I never took any.

My question was, whether you had never stated so?—I have not said, and never could have said, that I received any from the beginning of December till the end of March.

Will you swear that you never said it?—Yes, I swear it.

I ask whether you did not call on Colonel Browne with a bundle of papers?—I had but two or three letters to make myself known.

Did you not, when you called on Colonel Browne, ask him if he was not one of the commissioners appointed to inquire into the conduct of the Princess of Wales?—I knew it.

I ask whether you did not introduce your self by taking a bundle of papers out of your pocket, and asking Col. Browne if he was not one of the commissioners appointed to inquire into the conduct of her Royal Highness?—I called on him, and took out a few of my letters.

Did you not deliver those letters to Colonel Browne, saying, "Are you not one of the

commissioners appointed to inquire into the conduct of the Princess of Wales?" I showed him those letters, and made myself known, and said I had to complain of the advocate Vilmarcati, who, after having seduced me, had paid me so little.

I ask you again, whether, on taking the letters out of your pocket, you did not ask Col. Browne if he was not one of the commissioners appointed to inquire into the conduct of her Royal Highness? Yes, I asked him so; but I knew it.

Did not Col. Browne ask what your name was, and what you were? I made myself known by telling him I was the confidential clerk of the advocate Codazzi.

Did you tell him you were the clerk of Codazzi when you first entered the room? At first I asked if he was Col. Browne, for I knew not

Well, did not Col. Browne ask who you were? He answered me "yes," when I asked if he was Col. Browne. He did not ask me who I was.

Will you swear that Col. Browne did not ask you who you were, and that you did not refuse to tell? He did not ask me who I was, but I told him of my own accord.

Will you swear that Col. Browne did not ask you who you were, and that, on your refusing to tell, Col. Browne did not shut the door, and say that you should not leave the room till you told him who you were? I swear this not to be true.

I ask whether, in answer to a question by Col. Browne, you did not say that you were clerk to the advocate Codazzi, and whether Col. Browne did not then give back the letters you had delivered to him, and say that you were a most infamous scoundrel, and would end by being hanged? He shall be hanged, and not I; for I have not said so. [*The warmth with which this answer was delivered excited some laughter.*]

You must perceive and understand that that is not an answer to the question I put. I asked you as to what Col. Browne said, and not what you said?

(On the suggestion of Earl Grey, the question was repeated to the witness.)

Ans. I repeat again that it is not true. He gave me the letters; but he said no more. Nay, he shut the door of the room, in order that we might not be heard, and told me not to speak so loud, because I complained of Vilmarcati; and he told me to call next day on Vilmarcati, from whom he would cause me to receive 200 francs. This is what he told me, and nothing else. He said that the advocate Vilmarcati was a person of character, and would keep his promise.

Did not Col. Browne, when he shut the door, say that you should not go out of the room till you told who you were? He is a liar if he says so.

Do you mean to swear that Col. Browne

did not say so? Yes, I swear it. He told me what I have just said.

Did not Col. Browne say that you were a most infamous fellow at that meeting? I have replied many times that he did not say so.

Did he say that you would end by being hanged? He never told me so.

Did he say any thing to that effect? Nothing at all; for I have been seduced by them, and therefore they are more infamous than I am.

Did you call on Colonel Browne more than once? I called the first time in the morning, and he was not home. After dinner I called again and found him. I have therefore been twice.

Did you see him any more afterwards? I saw him often after that at Milan.

Did you ever see him more at his own house? I only saw him once at his own house.

When was that? In the end of March, this year.

What were the papers you carried to Colonel Browne at that time?—Two or three letters.

I want to know when you called on Vilmarcati, if you told him who you were the first time? He knew me.

I ask whether Vilmarcati did not ask you who you were, and whether you did not refuse to tell?—He did not ask me, because he knew me immediately.

Then you swear that Vilmarcati did not ask, and that you did not refuse to tell who you were at that meeting? Yes, I swear; it is not true.

Did you not live at that time on the Terrazo at Porto Toso? Not then. I lived then in the Contra di Larga.

Did you ever live on the Terrazo of Porto Toso? At present I live there.

When did you go to live there? On the 29th of September, last year.

Have you been living there from that time to the present? Yes.

Now, having told us that for two or three months you did not know that it was infamous to betray your master, I ask you if you think it infamous to say on oath that which is not true?

Mr. Denman, before this question was answered, wished it be referred to any part of the witness's evidence in which he had said that for two or three months he did not know that it was infamous to betray his master.

The evidence alluded to by the Solicitor-General having been read over from the notes of the shorthand-writer,

Mr. Denman objected to this question, solely because it appeared that the witness had said no such thing, it being only an inference of his Learned Friend.

The Solicitor-General would alter the

question, and ask the witness whether, having discovered in the month of January, at last, that it was infamous to betray his master, he thought it infamous to say on oath that which was not true?

Mr. Denman objected to this question also on the same ground; for the witness had not said he had discovered in January that it was infamous to betray his master.

The LORD-CHANCELLOR said the question ought certainly to be put in the terms of the witness's former answer.

The question being shaped accordingly, the witness answered—"to swear truth is just. What is true I swear; and what I have said I am ready to swear."

Did you communicate these facts to Codazzi of your own accord?—I told them on the 27th July.

Then, do you swear, that on telling these facts on the 27th of July, your master immediately dismissed you?—Yes.

Whom have you been living with since? I am in trade.

What trade? I buy and sell woollen cloth for dresses.

Did you ever carry on that business before?—Yes.

Will you swear that you have no expectation of returning to the service of Codazzi after this business is over? I will swear that because I am in trade.

Who brought you over here?—Vassalli.

What are you to have for coming here?—I will receive nothing. I came here to remedy my error, and tell the truth; to remedy the evil I have done, because I have erred.

Will you swear that was your sole reason for coming, and that you have no expectation of reward from any person? I swear it.

Do you mean to swear that no person has made you a promise of any thing for coming here? I swear it. They promised me nothing.

And do you mean to swear that you came solely to remedy the evil you had done? I do.

And that you had no other motive whatever? Nothing else.

Have you had any communication with Codazzi since you were turned out of his service? No, because I went into the country.

Did Codazzi never send for you? Never. Is Codazzi still employed by her Royal Highness? I don't know.

And will you swear that you have never seen nor had any communication with Codazzi since July? I will swear it a hundred thousand times.

Where do you carry on your trade? I carry it on at home.

Where? At Port Toso.

At Milan? At Milan.



How far is it from Codazzi? It is much distance.

What do you mean by much distance? Is it a mile? O yes, more than a mile.

Had you always lived at Milan, from July till you came to England? I always lived at Milan; but since July I have been a few days in the country,

Where in the country? In the territory of Lodi.

With the exception of these few days, have you been always at Milan? Yes.

And you mean to swear, though you have been at Milan all that time, Codazzi did not call on you or see you? I have bowed to him, but nothing else; I have not spoken to him.

Where have you seen him? On the Corso of the Porta di Genesa.

And do you mean to swear that when you met him on these occasions you have not spoken to him? I will swear it a hundred thousand times.

Were you not examined at Milan? They asked me very few things, because I wrote my deposition, and gave them to Codazzi on the 27th of July.

Were you examined by Codazzi on the 27th of July? I of my own accord told him the whole story.

And Codazzi took it down in writing? I wrote it with my own hand.

And you swear that, after that, Codazzi turned you out of his service? I do.

Did he not tell you that it was necessary you should go out of his service then, but that he would take you back when this process was over! No; because in the office of Codazzi I got nothing, and by my trade I did.

Did you then leave the service of Codazzi in order to gain by trade, or were you turned away? He sent me away.

But, having sent you away on the 27th of July, you could have no opportunity of knowing that you should gain any thing by your trade. Did you know at that time that you should gain any thing by your trade? Yes.

Why so? Because I was still carrying on trade while I was in the office of Codazzi.

And how came you, when you were carrying on trade, to remain in the office of Codazzi, when you got nothing for it? It was for the sake of learning to write well.

And will the witness swear now, that he has no expectation of returning to the service of Codazzi? I have no expectation of returning to his service, because I have no hope to do so, and am in trade, which suits me much better.

By Mr. Wilde.—How old is the witness? Twenty-two.

You have been asked whether Colonel Browne told you you were an infamous fellow: was it after this interview with the Colonel

that you received money from Vilmarcati? On the following day.

Was it after that interview with Colonel Browne that you gave the list of witnesses? Not immediately.

How much, on the whole, did the witness receive from Vilmarcati? From about 350 to 400 francs.

**FELIPPO POMI**, re-examined by MR. TYNDALL.

Do you know a person of the name of Reganti? I do.

Do you know whether his name is Felippo? I do; it is.

Where is he living? At the Porta di Genesa.

What does he do? He sells tobacco, salt, vinegar, and brandy.

Do you recollect his calling on you at any time? He did not call on me, but when I went to his shop he had always something to tell me.

Did he ever make you any offer?

The Attorney-General felt it his duty to submit to their Lordships whether it was competent for his Learned Friend to cross-examine relative to offers made to Reganti. He thought proper to throw this out, although, from the course which their Lordships had taken, they might be of opinion that the question was a proper one, but as the evidence now stood, he apprehended, that they were certainly not entitled to put it.

The LORD-CHANCELLOR thought, that after what the last witness had said as to what had passed between himself, Vilmarcati, and Reganti, this question might be asked.

Some objection still appearing, the question was withdrawn, and the following substituted—On that occasion what did Reganti say? I went to buy salt, tobacco, or something else, for he knew that I belonged to the Barona, Pomi, have you ever seen those "scherze" between the Princess and Bergami? Now is the time to come forward to obtain something and become a man. (The interpreter explained that "scherze" was a most indefinite term, which meant any thing or nothing.

Did he say any thing more on that occasion? He told me this, and I answered him, "No, I have seen no scherze;" and then he replied, "How! have you not seen Bergami putting the Princess on horseback or assback, and thrusting his hand under the Princess's petticoats?"

[The interpreter observed that the phrase mettere a cavallo implied either on the back of a horse or an ass, in the sense intended by the witness.]

Did you make any answer to that? Yes, I told him that this was a true falsehood (much laughter), a real falsehood, for instead of that he paid her all proper respect and decency,

such as the greatest personage required, such as was due to her.

Did any thing else pass between you? Yes, at other times, and whenever I went to his shop, so that I was obliged never more in fact to go to his shop, and I left it altogether, because he bothered me so much on this subject—he gave me so much trouble and annoyance.

*Cross-examined by the ATTORNEY-GENERAL.*

The witness has said that Reganti never called on him, but that this conversation took place when he went to Reganti's shop: is it so? Yes, it is actually so, I can swear it.

When was it that this conversation took place? When I went to buy something—tobacco, or something else.

I know the occasions on which it was, but I ask the time. How long ago was it? I don't know precisely, it happened last year.

About what time in the last year? Oh, he said so many times: whenever I went into his shop he would always use such annoyances to me; and he even went so far as to say that he would wage war against her till her death. There were several other persons present besides myself, there were five or six persons present.

Will you mention the names of some of those who were present when these conversations took place? I could name Antonio Baraggi, who was present, for I remember him. The others I cannot tell you. I know them, but I don't remember them.

Who was this Antonio Baraggi? A man who always frequented that shop.

Where does he live? At Milan.

At what part of Milan? I don't know; I know he lives at Milan, and is a man of this description. I know him by name.

What is he—of what description? I don't know whether he is employed in the police, or in some other way.

But you say there were other persons in the shop; did Reganti direct his conversation to Baraggi, as well as to you, Pomi? He did not speak to me directly; he spoke generally to those who were present. He had not this conversation with me in particular.

Then this conversation was general, and directed to the persons in his shop? Yes, I know some of the other persons.

Cannot you recollect some of their names besides Baraggi's? I cannot recollect them. If I had known this affair would happen, then I should have been more attentive, and this matter would have made more impression on my mind.

This conversation took place frequently then, when you went to Reganti's shop? About four or five times, when he always told me these annoyances; so that, as I have been obliged to go no more to his shop to buy salt and other articles.

Did you go to buy those commodities for yourself, or for the people of the Barons? For my own use, because I wanted them.

Was Baraggi present more than once, or only upon one occasion? I cannot tell; he frequented the shop, and might or might not have been there; but that once I well remember.

Is what the witness has stated all that passed on that occasion, or did Pomi himself say any thing more than what he has stated? Yes, I think so; as to the others I can say nothing: there was Donna Giusta; but she is a just and charitable woman.

By the EARL of LAUDERDALE.—Were you present at the ball at the Barons? Yes, I told you the other day that I was.

Were your daughters there? No, because I had no daughters.

How came you to say, the other day, that they were to give you the sum of a livre per day for your wife, and half a livre for each of your daughters? I said *figli e figlie*, because my eldest son was then under 9 years of age; and though I have daughters, they are babies.

*ANTONIO MAONI sworn, examined by MR. WILLIAMS.*

Where do you come from? Venice.

What business do you follow there? Before, I was employed in the police; now I am a manager of estates.

At Venice? At Venice, or wherever I get an opportunity.

Do you know a person of the name of Paoli Zangli? I do.

What is he? He was a manager of a theatre.

Were you acquainted with this man in March, 1818? Did you know him then? I did.

Do you remember having been at the theatre at Venice with this Zangli in the course of that time? Yes, in the theatre of San Lucca.

In what part of that year? In the month of November.

At that time do you remember Zangli receiving any number of letters—one or more? I do, two letters at once.

Did you observe whether Zangli opened those letters or not? I saw him open them, and I saw a motion of surprise when he had read them.

Then you observed that the motion of surprise was evinced immediately that he had read those letters? Yes, it is very true.

After this, did you and Zangli go together from Venice to Milan? We set out from Venice, and went to Milan.

How soon after the receipt of these letters? Five or six days; perhaps seven; thereabouts.

By what conveyance did you go? By the Diligence.

When you arrived at the place whence the Diligence set out, was there any money deposited there for the use of Zangli? On the following day, after Zangli received these letters, we went together to the place of the Diligence, and I then saw Zangli receive fifteen Napoleons d'or, which were sent him from Milan.

When you had arrived at Milan, do you remember going with Zangli to a house on the Porto d'Orientale? I do: we went to a house there, No. 660.

Do you remember the adjoining houses on either side? Can you describe them either by the trades carried on there, by the people, or in any other manner? Before Ricconi's, at the door 660, there is a tailor's shop.

Is that an adjoining house on the one side? Yes.

Does he at all recollect what is the description of the house on the other side? I paid no attention to that; why I did to the tailor's shop was, because there we inquired after the number of the door.

Did Zangli and you go into that house? Yes, we went in.

Did the witness go up, or remain below? I remained below.

How long did you remain below? About a quarter of an hour.

Did you wait for him till he came down again; till his return? Yes.

I don't ask what passed between you, but did you and Zangli go together to the inn after you had called there? We did.

While you remained at Milan, do you remember going with Zangli to another house? Yes, to the house of Vilmarcati.

Do you speak of Vilmarcati, the lawyer or advocate, or whatever they call him? I do.

In what street does he reside? In the *Strada di Ricesbello*.

On that occasion did Zangli go up stairs? He did, and remained an hour and a half.

At the end of the time you allude to, did Zangli come down and join you again? Yes, and then went to another man.

After that, did Zangli and you go to any other house? Yes, at the house of Major Browne.

How do you know it was the house of Major Browne? Because Zangli said so.

Do you know two persons of that name, a colonel and a major? No, there is but one.

How do you know he is a major? I don't know whether he is a major or a colonel: I never saw his brevet.

Did you ever see this major, or Colonel Browne? Yes, on the following day, when he met Zangli in the street, and bowed to him, and Zangli said, "that is Major Browne."

Did they on that occasion speak to each other? No, he bowed to Zangli, and each then went on his own way.

In what street did this Major Browne live of whom you speak? At Porto Orientale.

Was the house No. 660? Yes, it is.

On the latter occasion of which you speak, did Zangli go up stairs? Yes, he did.

Did you go up stairs with him? No, I remained below.

How long did Zangli remain above? A quarter of an hour.

When he came down stairs, had he any thing with him? Yes, he had.

What? He had his hand full of double Napoleons.

How many might there have been, do you think? He told me 80; and from seeing the handful, it must be so.

Do you mean 40 double Napoleons, or 80? I mean 80 double Napoleons.

What did he say to you then?

The Attorney-General objected to this question, and said that at present there was not the slightest pretence for asking the House to admit evidence so irregular as the conversation, whatever it might be, between Zangli and the witness of what passed between the former and the person with whom he had been. As the case now stood, there was nothing whatever to show that Zangli was either the agent of Colonel Browne or Vilmarcati.

Mr. Williams contended, that in point of law the question was perfectly admissible. The evidence for which he called fell within the ordinary rule of declarations accompanying the act, but he did not mean to rest on that.

The Solicitor-General denied that they came within any such rule.

Mr. Williams renewed his argument, and contended that the question ought to be put. Suppose the witness were to say that he was told to make depositions against the Queen, whether true or not, and to receive for them valuable considerations; suppose this should appear to be the declaration made by Zangli to the witness.

The Attorney-General here interrupted Mr. Williams, and objected to his Learned Friend's arguing on any such declaration, which, in this stage of the proceeding was perfectly inadmissible.

Mr. Williams said, in reply, that the judges in delivering their opinion this day, had said that on a trial for a conspiracy it was competent for the party to begin at whatever end of that conspiracy they thought proper. The usual practice, they said, was to begin with evidence of a general nature, showing the existence of the conspiracy, and then to adduce the details, bringing it home to individuals. His object now was to show that an opinion prevailed in Italy, that if witnesses came forward against the Queen, whether right or wrong was their testimony, they would be profitably rewarded. He had here shown that

one witness had received a letter, in consequence of which he had gone to Col. Browne, and that when he came down from that person he had a handful of money, which he showed to the witness, who is now ready to prove the fact. This was only a step in the case, it was true; but how else but by steps were they to unravel the conspiracy? How else was he to prove it, except by showing the parts of which it consisted?

Mr. Tyndall followed on the same side. An agency was to be proved in several ways, both by direct proof, and by reference. It was in a variety of instances only to be proved by the latter. Suppose for instance, a charge of bribery was brought against a candidate at an election, how rarely in the first instance could evidence be obtained directly to affect the agent? The only way to ascertain the fact was to trace his conduct by his acts, to find out the individual by it, and then trace the bribe to the party giving it; that was the course they were taking here. They saw a person go from Venice to Milan, who found a larger sum than the wants of the journey demanded waiting for him at the diligence-office. The moment he arrives at Milan he calls on Col. Browne; he then goes to Vilmarcati, returns again to Browne, and on coming down stairs shows to his friend the handful of Napoleons, producing them as the sum he was to get for his evidence. If this was not bribery, he was at a loss to know what bribery was. Was it to be inferred from substantive facts, which clearly showed the existence of conspiracy. From separate facts like that he had stated the case of bribery was to be made out. In the case of the King v. Stone, evidence of a letter was admitted—a letter not written by Stone, nor was there any proof he had ever seen it; but it was still admitted, because, as there were several concerned in the common design, it was held that the letter was evidence against all. Their Lordships were, he contended, bound to admit the question put to this witness.

The Attorney-General, in reply, entreated the House to pause before it admitted this evidence, and see the importance of adhering to the ordinary rule of law, which were fatal to the admissibility of this question. They had now heard that they were to be called upon to admit as evidence in this cause the prevalent reports which might have been circulated in Italy, because it was possible they might have made an impression on the minds of the witnesses. The House might now clearly see the extent to which the other side were allowed, and it was his (the Attorney-General's) duty to object to it, when the object was to substantiate so foul, so heinous, a crime. It was admitted by the counsel for the Queen that they had not yet laid down the foundation for this species of testi-

mony, and they claimed credit for connecting it with the case hereafter. But persons were to be presumed innocent rather than guilty, and the House was bound so to consider Vilmarcati and Col. Browne, until by distinct legal evidence, and not by vague declaration, they were shown to be otherwise. Why, at all events, did not his Learned Friends call Zangli? His agency must be proved before his declarations could affect any of the parties, and that agency could be established only by acts, and those acts must be adopted by the principal. Here nothing was attempted to be proved but the declaration of Zangli, in order to show that he was the agent of Col. Browne and Vilmarcati. If the House let in this evidence, they must go still further—it must receive all the prevalent rumours and opinions existing at the time in Italy, because by possibility they might have had some influence on the mind of the witness at the bar. If this had been an indictment, it would have been the duty of counsel to take the objection, and in this proceeding it was no less his duty to do so because a false impression might be produced—the statement of what could be proved might go forth to the world with nearly the same effect as the actual evidence. Colonel Browne and Vilmarcati ought not to be convicted upon mere suspicion and inference. What the witness had already stated amounted to nothing.—He most earnestly entreated their Lordships, before they decided to receive the evidence, and thereby to deviate so widely from all the established rules of evidence, to consider that the inquiry in that case must be interminable: it had been avowed by the counsel for the Queen that they should bring forward testimony to all the rumours and speculations afloat in Italy, and if they were allowed to go to this extent there was no safety in future for the life, character, and property of any man. A flood-gate would be opened to testimony such as had never been brought forward in any case since the beginning of time. The hypothesis was, that at some time or other Zangli would be connected with the supposed parties to this conspiracy; but the accused had a right to demand that the connexion should be established in the first instance. The objection he had urged was not merely technical, it went to the very foundation of truth and justice, and depended upon rules of law that to this day had been held sacred.

Mr. Brougham said that he had no right to reply, he only wished to explain.

The Attorney-General.—I object, my Lords, to this explanation.

Mr. Brougham.—I only beg to say that we do not attack Colonel Browne. (*Order, order.*)

The LORD-CHANCELLOR said that three grounds had been urged for receiving this evidence:—1st, That testimony might

be given of general impressions abroad; but this was the first time his Lordship had ever heard of such testimony being offered. Secondly, it was asserted that agency had been established. He could not conceive on what ground the declarations of Zangli, when he came down stairs to the witness, could be admitted as the proof of what had passed up stairs. If this were to be proved, at all events it must be proved by Zangli himself, unless the rule that the best evidence that could be obtained should be adduced were completely reversed. The third point urged was, that this might in the result turn out to be evidence of a conspiracy; but here again his Lordship knew of no case where such had been allowed, and where it was not required that the party producing the evidence should connect it more immediately with the charge. For these reasons he thought that the objection urged by the Attorney-General ought to prevail.

LORD ERSKINE entertained some considerable doubts upon the subject. He agreed that this question ought to be viewed as if the objection had been taken on an indictment; and he admitted also that before such evidence could be entered upon, counsel ought to explain its object, and to state what he intended to attempt by the production of the witness. If the proof failed, no party would be affected by it. It was asked if this were a connected chain of testimony? It might be so, but as yet the House only saw one of the links which hereafter might be connected, and closely connected with Colonel Browne and Vilmarcati. The question here was, whether the declaration and explanation on the part of counsel had been sufficient to bring the case within the decision of the judges. His Lordship then referred at some length, and in a low tone of voice, to what had occurred on the trial of Hardy, in 1794; he mentioned various circumstances connected with that proceeding, in order to show that the Attorney-General of that day, the Lord-Chancellor of this, had been allowed to state what he should be able to prove against the conspirators, and then to proceed to it step by step, without, in every instance, showing the precise connexion of the evidence with the parties accused. It had turned out that the prosecutors could not connect the links, at least so the jury found, and a verdict of acquittal was the consequence. The Attorney-General had to-day complained that on such evidence as that offered, a false impression might go forth to the public to the prejudice of Colonel Browne and Vilmarcati, but when men were on trial for their lives no such objection was allowed; the evidence was allowed to weigh what it was worth for the time, and if it were not brought home to the party, a verdict in his favour was the consequence. His Lordship did not see why

a different rule ought to prevail in this case. If a conspiracy existed to defame and degrade the Queen, before it was proved, some opening ought to be made at the bar, and the question, as he had observed, in this case, was, whether the explanation that had been given fell within the opinion given by the judges.

The LORD-CHANCELLOR observed, that in his view this point required much consideration, though he was quite satisfied, if his Noble and Learned Friend looked again at the case to which he had referred, he would entertain more doubt than he had expressed. The effect of the case of Hardy, Stone, and others, had been collected in Mr. Phillips's work on evidence, which did the learned author so much credit, where it was distinctly laid down that the separate declarations of conspirators rendered the whole responsible; but then they must first be shown to be conspirators, and their declarations must be proved according to the regular forms of law. Hardy's trial had occurred so long ago, that until he refreshed his memory regarding it last night, he (the Lord-Chancellor) had forgotten nearly all the circumstances, excepting that he made a very tedious speech, which very nearly killed himself and quite sickened his hearers. Having referred to it, however, he found that the position taken by his Noble and Learned Friend (Lord Erskine) was by no means borne out. If A. B. and C. D. were both proved to be parties to a conspiracy, then E. F. might be examined as to the declaration of C. D. which would also affect A. B. but the testimony of E. F. could not be received until C. D. was shown to be connected with the conspiracy. Here, if Colonel Browne and Zangli were proved to be connected with Colonel Browne. His Lordship here examined a part of the evidence on the point of conspiracy in Hardy's trial, referring particularly to certain letters from Martin to Margarot, and to the opinion of Mr. Justice Buller. Here there was no evidence to connect Zangli with Colonel Browne, though Reganti and Vilmarcati stood upon different grounds. On the whole, therefore, his Lordship felt satisfied that the question proposed could not be put to the witness.

LORD ERSKINE added, that what the Noble and Learned Lord had selected from Hardy's trial had no reference to the part which he (Lord Erskine) had alluded to.

The LORD-CHANCELLOR begged pardon for interposing; but it might perhaps be as well if his Noble and Learned Friend would take an opportunity of again reading the arguments in that case.

LORD ERSKINE replied, that he remembered all the main features of the case, as well as if it had occurred yesterday. The question was, whether what was now offered to be proved might not hereafter be shown to



be a link in a chain of evidence, showing that a conspiracy had existed to suborn witnesses against the Queen. In Hardy's trial, Lord Chief-justice Eyre had allowed the Attorney-General to bring forward evidence of particular facts, on the faith that they would afterwards be combined and united into a series. He (Lord Erskine) did not mean to offer a decided opinion upon this point, but he thought the same liberty ought now to be allowed to the counsel for the Queen.

The LORD-CHANCELLOR had no objection to the opinion of the judges being taken on the subject, and Lord Erskine expressed his assent.

Mr. Brougham said, that the House might remember that he was not allowed to open the nature of the evidence upon this point.

LORD ERSKINE observed, that counsel ought not only to be permitted to open it, but were required to open it.

The LORD-CHANCELLOR, after exchanging a few words with the judges who sat near him, said, that though it might not be regular, he was authorized to say that the judges entertained no doubt that the evidence ought not to be received.

LORD REDESDALE, in a few words, expressed his concurrence.

EARL GREY felt disposed to agree in the opinion given by the Lord Chancellor, and upon the three grounds that he had stated. General reports, he thought, ought not to be proved, and the agency of Zangli was not sufficiently established. As to the third point, whether it was proof of a general conspiracy he felt bound to admit that Zangli was in no way shown to be connected with Col. Browne nor could evidence of his declaration be admitted. If Zangli were not connected, it was impossible that the House should hear from a third person what Zangli had told him, in order to affect Col. Browne. Such being his opinion, he did not think any reference to the judges necessary.

Mr. Brougham—Will your Lordships allow me to state—

The LORD-CHANCELLOR.—The House, I dare say, will have no objection to allow you to state what you wish to-morrow, but it is now 4 o'clock.—Adjourned.

### House of Lords,

• THURSDAY, OCTOBER 19, 1820.

The LORD-CHANCELLOR took his seat at ten o'clock, after which prayers were read.

The House was then called over, and the Counsel appeared at the bar.

The LORD-CHANCELLOR wished to know whether it was their Lordships' pleasure that the Counsel should proceed. It would be recollected that the Counsel for

the defence had yesterday, at the close of the proceedings, intimated a wish to make some statement to the House. He wished to know whether the Learned Counsel had any thing to propose to their Lordships that morning.

Mr. Brougham wished to know in what situation he stood, and whether he was to consider their Lordships as having settled the question yesterday.

The LORD-CHANCELLOR.—You will consider yourself as possessed of the same opportunity of proceeding with any statement that you had yesterday, when you were interrupted by the adjournment of the House.

Mr. Brougham said, he understood the sense of the House had been sufficiently marked yesterday on the proposition which had been made. He was, therefore, unwilling to press a topic which he considered decided. But what he now meant to open, was a different proposition from that which he submitted yesterday.

The LORD-CHANCELLOR understood that the Learned Counsel did not propose to argue a point which might be considered as decided by what passed yesterday. Whether the question which the Learned Counsel had yesterday proposed to put might not hereafter, and for another purpose, be asked, was matter for further consideration, but he conceived that the most convenient course would be to consider the House as having now come to a determination that the proposed question was not proper in the present stage of the case, and that the answer could not be received. His Lordship proposed, with the leave of the House, to state this to the Counsel.

This proposal was agreed to.

The LORD-CHANCELLOR then addressed the Counsel thus:—"Gentlemen, I am commanded to inform you, that, in the present stage of the proceeding, the question you proposed to ask the witness cannot be put."

Mr. Brougham conceived that the objection to the question had been founded on a mistake as to its object, and wished to know whether the question in another shape, or with a view different from that which the decision of the House supposed, might not now be put. The question now decided he took to be this—that the witness could not be asked what had been said to him in a conversation with another respecting a third person; that, for instance, he could not ask the witness to state what Zangli had said Colonel Browne told him, as any evidence against Colonel Browne; that any declaration of Colonel Browne made to Zangli could not be proved unless Zangli himself were called, and that Maino could not be called to prove it; he, Maino, according to his own statement, not being the person who heard it. This was the nature of the objec-

sion which had hastily been taken up against the question by the other side, but no one on his side had ever said that they had a right to ask questions of Maino, with the view of proving what Browne had said to Zangli. They had never proposed any thing so absurd. The question, with the view they intended to ask it, was therefore one, on which no decision had yet been given. If he could show such acting on the part of Zangli himself as would implicate him as a principal in the conspiracy—if, through the examination of Maino, he could show what Zangli did as a conspirator—then the question put in that way was very different from what it had been conceived to be, and was one against which their Lordships had not decided. The witness was called to prove the acts of Zangli in what they (the counsel for the defence) called a conspiracy, the existence of which, according to the opinion given yesterday, they were entitled to prove. Maino was called to prove acts of Zangli, not of Browne, in the general conspiracy.

The Attorney General considered this a re-opening of the question which had been decided yesterday.

Mr. BROUGHAM reminded their Lordships that they (the Queen's counsel) had not been allowed to put the question to the witness Maino. The examination had been stopped by the interruption of Mr. Williams, and their Lordships had decided against the question on the objection taken by the Attorney-General. The conduct of his Learned Friends on the other side was very extraordinary: and as for their opinions, they were so slippery that it was quite impossible for him to conjecture what their opinion on any point might be for an hour together. They argued a point with great zeal one day, and gave it up quite unconcernedly the next. They sometimes talked, too, of not objecting personally to a question. What they meant by not having personally any objection to a question, he really could not understand.

The Attorney-General observed, that no new question had yet been offered. If a question was asked and objected to, it was competent for the counsel who proposed it to argue in support of its fitness, but he never heard it before attempted to enter into an argument before a question was put. If Zangli was to be proved a principal in a conspiracy, that must be done in a regular course, but as yet there was no evidence connecting Zangli with the proceedings.

The Solicitor-General saw no ground for disputing the decision which had been come to on the question. It was true that Mr. Brougham had not personally taken any part in the argument of yesterday; but the question was then argued on the very ground he had now taken. His Learned Friend had therefore no right to suppose that the case was not de-

cided yesterday. As to the conduct of himself and his Learned colleagues in support of the bill, it had not been marked by any of that uncertainty which was attributed to it. Their Lordships had ordered them to appear for the bill. They had, at the commencement of the proceedings, declared that they would be guided, with regard to the reception of evidence, by the practice of the courts below. He and his Learned Friends, therefore, considered it their duty, when a question arose which appeared not proper to be put, to object to it. They stated their objection, and to doing that their duty was limited; if their Lordships, however, determined to receive the evidence, he and his colleagues were bound to submit to the decision. This, he believed would be considered as a sufficient explanation of their conduct.

The LORD-CHANCELLOR wished the counsel for the defence now to state what course they proposed to take.

Mr. Williams said, the objection to the question he had proposed to put to the witness Maino had been made and acted upon before he had had the opportunity of explaining the view with which he wished to ask it, but that the whole proceeding had been founded in misconception. He had been prevented from stating what were the words attributed to Zangli, and the whole objection on the other side had nothing to do with the real state of the case.

EARL GREY considered the question decided yesterday to be different from that now proposed. The Learned Counsel had stated that he was interrupted in his examination by the Attorney-General before it was known with what view the question was put. Their Lordships were now given to understand by the Learned Counsel that they had evidence to prove Zangli a conspirator; and that they wished to call witnesses to prove that fact; and that they had a right to do this in order to prove the general conspiracy. It seemed to him, undoubtedly, this was a new point, and that, in consequence of the decision of the Judges, the Counsel for the defence were entitled to go on with their case.

The EARL of LIVERPOOL said, that it would appear to him a very anomalous course of proceeding if Counsel on either side were, after opening a case, allowed to go into new matter. The Learned Counsel for the defence had opened no case to which, in his opinion, authorized the course now proposed. If their Lordships were to proceed in trying the case, they must refer to the original opening, and under that opening the witnesses were to be called. When any question arose which was objected to by the other side, it was for their Lordships to determine whether it should be put; but he could not conceive that it would be right to open a separate case for the introduction of

new questions. As to the opinion given yesterday by the judges, he must certainly admit that those learned persons stated that, in certain cases, questions relating to a conspiracy might be gone into, but they also stated that this was to be done when conspiracy was opened as part of the defence. Now, if he recollected rightly, no such opening had been made. If he understood what the Learned Counsel had stated in his opening, it was this—I do not charge any conspiracy, but I say that, if there had been a conspiracy, the acts of the parties would have been such as to have taken place. The course proposed by the Counsel for the Queen, then, was not supported by the opinion given by the judges on the last question which had been submitted to them.

LORD ERSKINE could not admit that this was a new and anomalous question. He was ready to admit that the question of getting from Maino what had fallen from Col. Browne in his conversation with Zangli, was very properly over-ruled. But the case now offered was a new case, namely, that of proving Zangli to be an agent in the conspiracy. This they had a right to do, either by beginning with the general evidence, and fixing the acts upon the individual, or by first proving the individual agency. Their Lordships were to suppose a case of indictment for conspiracy, and then they would see that the evidence against the conspirators might be taken in any order which should be chosen by the Counsel for the Prosecution. He denied that a Counsel was limited by his opening speech as to the proof of a conspiracy. The conspiracy might come to his knowledge only a moment before he had concluded his defence. Was he then to be excluded from the proof of it merely because the guilt of the prosecutor was not known till late in the proceeding? The question which the Learned Counsel now wished to ask was, in his opinion, one that ought to be put. If they were prevented from doing this, he would put it as a Peer, and their Lordships might then overrule it if they pleased. If, on a question like the present, their Lordships should think that they were not authorized to decide, without first obtaining the opinion of the Judges, he thought they ought not to pass any act, not even a common-turnpike-bill, without availing themselves of the same assistance. No man could feel more respect for the Learned Judges than he did; they had been the companions of his former years, and he knew how to value their opinions; but he contended that on the present great and important proceeding, their Lordships ought not, in every instance to be governed by the decisions of the Judges. He had no objection to their opinion being given; he would rather act in conformity with, than in opposition to it; but the examination proposed by

the Counsel for the defence ought to be gone on with; and for himself he must say, that without it, he knew not how to form an opinion on the evidence which had been given before their Lordships.

The EARL of LAUDERDALE admitted that it was competent for the counsel for the defence to put any question; and that the question of yesterday stood on a different ground from the present: but he could not see the possibility of going forward with this case, if counsel, before they put questions, were to be allowed to enter into a long argument on the course they proposed to pursue, to be replied to by the counsel opposed to them, and then to reply to the objections by which they were met. He thought some rule ought to be laid down to guard against this, to prevent a debate being raised before a question had been put.

The EARL of DARNLEY moved that the answer given by the judges to the question referred to them yesterday should be read.

The opinion given by the judges on the preceding day was then read by the clerk.

The EARL of DARNLEY said, he should think himself deficient in his duty if he did not take the earliest opportunity of expressing his dissent from the proposition of the Noble Earl opposite. If he rightly understood the Noble Earl, he contended that their Lordships were not at liberty in that inquiry to enter upon any examination not opened by the learned counsel at the bar. He did conceive that it was utterly impossible to go on with that extraordinary and unprecedented proceeding with any hope of doing justice, if the counsel were to be precluded from bringing forward any evidence which they might think essential, although it had not been stated in the opening. He had hoped and trusted that long ere this time a proposition, not from the side of the House in which he had the honour to sit, nor from so humble an individual as himself, but coming with authority, would have been made to put an end to this disgraceful proceeding. This was the more to be expected, seeing that new and extraordinary circumstances arose from day to day, which cast discredit on the whole case. He hoped the day was not far distant when he should hear such a proposition made. In the mean time it was their Lordships' duty to give the fullest latitude to the defence, and to allow the counsel for the Queen to produce, from time to time, such evidence as came to their knowledge, and was necessary for the case of their client.

The LORD-CHANCELLOR said, the opinion of a judge, on any particular question, deserved much attention; but no man, as a judge, could hope for such attention, unless he himself showed due respect to the opinion of others. Feeling thus, he thought it his duty to say that, having un-

doubtedly mistaken Mr. Williams, he regretted the circumstance very much. He had, in conformity with their Lordship's commands, stated that the present question could not now be put; but this did not affect any question that might be put in a future stage of the proceedings. It applied only to the present moment. Their Lordships had yesterday determined that evidence of what was called this "conspiracy," should be heard. He bowed to that decision; but, humble as was the individual who now had the honour of addressing their Lordships, he felt it necessary to state that he entertained a different opinion. It was a painful thing for him so to do. But, however adverse his sentiments might be, no slander and no calumny, come from whomsoever it might, or come from whatsoever quarter it might, should ever prevent him from doing his duty. (*Hear, hear.*) Their Lordships had determined that they would go into this species of evidence; but that determination, he apprehended, went no further than this—that direct evidence should be received; but that, on the ground of an impression, with respect to what was termed the avowed conduct of an individual in procuring agents, a question could not be put. This, however, did not shut out the question now under discussion. Whether that question might not be repeated, with another view, was a matter for the consideration of the Learned Counsel at the Bar, who would be heard in support of it. He had no difficulty in saying, after the recent determination had been come to, that a question of this kind might be put now;—not a question opening as to the probability of a conspiracy; not a question as to what persons would or would not say, if they were called; but a question having a direct object, the Counsel saying, in putting it, "What I am now about to ask goes to such and such a point." Whether their Lordships would then suffer the question to be put would remain for their consideration. It was for their Lordships to judge whether the question that had been asked constituted a legitimate mode of discovering whether an individual was one of those alleged conspirators. But such a question might be put with quite a different view: and when their Lordships heard the question, and understood its object, it would be for them to decide on its propriety. Unless the view which his experience enabled him to take on these subjects had led him into great error, there was as wide a distinction as possible between the evidence that should be received in cases of indictment for conspiracy, and that which their Lordships had determined ought to be received. Let not their Lordships run away with a false view of the question. Let them look how the question really stood. A conspiracy might be formed to suborn witnesses, and yet no witnesses might be suborned.

The conspiracy might be, nevertheless, of the most mischievous description. If they should find that such a conspiracy had been formed—if this fact was once established—they must look with suspicion at all the evidence, even at that part of it to which the conspiracy did not appear to apply. But to argue, as some of their Lordships had done, that because some of the witnesses had been suborned, or attempted to be suborned, there was an end of the case, though it was supported by purer testimony on the part of the prosecution, and, as often happened, by evidence brought forward in support of the defence, was, in his judgment, a very inconclusive way of reasoning. He now understood it to be the object of the Learned Counsel to prove, that the witness had himself been concerned in the alleged conspiracy, and this, he apprehended, they were at liberty to do. He acquiesced in the view of the case that had yesterday been stated, namely, that Counsel were at liberty to prove Zangli himself a conspirator; and, having done that, they might proceed to examine evidence as to his declarations.

The Counsel were now called in.

Mr. Brougham. Will your Lordships allow Counsel shortly to state the view with which we wish to put the question that has been objected to?

The LORD-CHANCELLOR. Either of you may do it.

Mr. Williams said he was yesterday about to examine the witness as to the purport of the declarations of Zangli himself. This was his object; and inasmuch as it was impossible for him to do that without putting the preliminary question respecting what Zangli had said, he had put that question which had been objected to, and successfully objected to by the Attorney-General. He (Mr. Williams) was not then allowed to open what he intended to prove; and it was supposed that he was about to inquire into what Zangli had said respecting Browne—a thing which had never once entered into his dreams. What he proposed to prove was this—that Zangli had told the witness that if he would depose to any thing against the Princess of Wales, his fortune would be made. To this the witness replied—"But how can I do that when I have never seen her?" Zangli would then be shown to have said, "Oh! as to that, I can take you to the Villa d'Este, and the Lake Como—I can point out a spot where you can swear that you saw her Royal Highness and Bergami embracing, and that will be sufficient." The witness would then state what had been done in consequence; but that which he would prove was all between himself and Zangli, and had nothing to do with Colonel Browne.

The EARL of LIVERPOOL. Put the question distinctly.

The LORD-CHANCELLOR. State the



question in the terms in which you mean to propose it.

Mr. Williams said he could not put the whole of his intended examination in one question. He should ask the witness the question he put yesterday, following it up by what he conceived necessary in explanation.

The LORD-CHANCELLOR desired Mr. Williams to state what that question was.

Mr. Gurney, at the request of Mr. Williams, read several questions and answers immediately preceding the objection taken yesterday, the last question, with reference to what passed between the witness and Zangli, was propounded in these terms?—"What did he say to you at that time."

The Attorney General said he again objected to that question; and he thought the answer his Learned Friend had given to his objection that morning did not carry his case at all farther than it had proceeded on the previous night. His Learned Friend had said that his course of examination would not open the conversation of Zangli and the witness with respect to Col. Browne. But their Lordships must recollect his Learned Friend to have distinctly stated, that he would be able to bring home to Colonel Browne the acts of another person. He, however, had a right to contend that the whole of those acts, allowing them to have taken place, must be attributed to Zangli, without any connexion with the Milan commission. But his Learned Friend wished to show, from the declarations of Zangli, that he was employed by the Milan commission as an agent to suborn witnesses. Such evidence, he would maintain, could not be received in any court. It never was known that an absolute agency was proved by evidence of the declaration of the agent, the agent himself must be called. The Learned Gent. stated his great objection to be, that the declaration of Zangli, stated by a third person, even on the showing of his Learned Friend, could not be received. He himself must be called; or it must be shown whether he was authorized to do such acts as those that had been referred to; because it would be most unjust to make a principal accountable for acts which he had never given his agent liberty to perform. If their Lordships looked at the way which it was argued yesterday—most laboriously and ingeniously—by his Learned Friend, Mr. Tindall, they would find, notwithstanding all the efforts that had been made to prove the contrary, that the question still remained the same, and that their Lordships were, in fact, only considering the judgment at which they and the Learned Judges had arrived yesterday.

The Solicitor General said, the manner in which he understood his Learned Friend, Mr. Williams, to attempt to prove that the present must be considered admissible evi-

dence in this case, was, first, by showing that a conspiracy had existed to suborn evidence against the Queen, and next by assuming that Zangli was one of the agents of that conspiracy. He (the Solicitor Gen.) admitted, as a point not to be contested, that if it were established on the other side that a conspiracy to suborn witnesses existed, and that this man was one of those conspirators, then every act done by him with reference to that conspiracy, and every declaration he had made respecting it, was most material, and was most indisputably evidence in this case. But his Learned Friends had assumed the whole foundation of their argument. They assumed that there was a conspiracy to procure evidence against the Queen; and they also assumed, as part of their case, that Zangli was one of the conspirators. But he apprehended that, before they were in a condition to prove him to have been a conspirator, they ought to give evidence of the reality and existence of such a conspiracy; and then it would be competent to them to satisfy their Lordships that Zangli was one of the members of the association. In support of this he would quote a passage from *Phillips's Law of Evidence* (a book that had been often referred to in the course of these proceedings), where the doctrine was laid down so clearly that it was impossible for any person to misunderstand it. The passage was as follows:—"In prosecutions for conspiracies, it is an established rule, that, where several persons are proved to have combined together for the same illegal purpose, any act done by one of the party, in pursuance of the original concerted plan, and with reference to the common object, is, in the contemplation of law, as well as in sound reason, the act of the whole party; and, therefore, the proof of such act will be evidence against any of the others who were engaged in the same general conspiracy, without regard to the question, whether the prisoner is proved to have been concerned in that particular transaction. This kind of evidence was received on the trial of Lord Strafford and of Lord Lovat, on the trials for High Treason at the Old Bailey in 1794, and in the case of Stone, in 1796; in which last case the rule was completely settled. In that case, evidence having been given sufficient for the jury to consider whether the prisoner was engaged in a conspiracy for treasonable purposes, it was determined that a letter, written by one of the conspirators, in pursuance of the common design (although the letter had not been traced into the hands of the prisoner, or to his knowledge), was admissible in evidence as the act of the prisoner himself. The acts of the several conspirators, who are engaged with the prisoner in one common object, are evidence against him, though he may not have been directly a party to them; they are evidence



as acts connected with, and in conformity with, his own acts. All that he was desirous to do was to produce a clear and distinct understanding of this question among their Lordships; and if his Learned Friends had convinced them that there had been such a conspiracy as they spoke of, and that Zangli was a party to it, he did not stand there to contend that this would not be evidence.—But was there, in fact, before them any evidence which would convince any reasonable man of the existence of such a conspiracy? And if there were no evidence of that kind, still less did it appear that Zangli had been engaged in it. What did the evidence state? The evidence was, that Zangli came down from Colonel Browne, with a certain sum of money in his hands, and that he had called on Vilmarcati at Milan. But was it therefore to be inferred that he had been concerned in a malignant, atrocious, and abominable design to fabricate evidence against the Queen? Was it on such vague rumours as these that their Lordships would fix this infamous crime on an absent individual? Were they, on such weak arguments, on facts of so slight a nature, to come to this conclusion, not only that a foul conspiracy had existed, but that this man was a conspirator, and that many honourable individuals were no less deeply implicated in effecting the base purpose which his Learned Friends had pointed at? Never, in any judicial inquiry that he had been connected with, did he ever know facts so proved, and circumstances so stated, to be considered sufficient to establish the existence of a conspiracy, in order to let in evidence of the description now offered to their Lordships. The only points for their Lordships' consideration were, whether the existence of such a conspiracy had been established, and whether Zangli was shown to have been connected with that conspiracy.—If their Lordships were satisfied of the truth of these facts, then the objection of himself and his Learned Friend was at an end. But he did conceive that the admission of such a course of examination was quite inconsistent with the dictates of law, of common sense, of justice, and of humanity.

Mr. Williams was extremely anxious that this question should now be rightly understood, because it was very clear that yesterday it was wholly misunderstood. The Attorney-General had, on that occasion, profited of his own wrong, by stopping him (Mr. Williams) in the course of his speech, for the purpose of applying himself to a case that never did exist, and of answering arguments that never had been used. He had never asserted that Zangli was, by his declaration, to prove that any one of the Milan commissioners was privy to the conspiracy. Yet it was on that unfounded presumption that his Learned Friend proceeded; and he had been

successful in stopping him (Mr. Williams) when he was about to state what he really meant to give in evidence. That evidence, if he had been allowed to explain it, would have beaten down and destroyed the argument of his Learned Friend, raised as it was on the fallacious assumption that it was intended to prove, by the means of Zangli, that Colonel Browne was connected with the conspiracy—a circumstance which, at the time, he had not in his contemplation. The first part of the Attorney-General's objection was never contended for; and, with respect to the second part, if he understood the subject rightly, it appeared to him that, in arguing it, his Learned Friend had confounded the law of evidence. He had been addressing their Lordships on the effect of the evidence, which effect could only be determined by hearing the evidence itself. His Learned Friend had confused—he would excuse him for so saying—two things, which, as a lawyer, he must have known to be essentially different. He had confounded the admissibility of evidence with the effect of evidence, when he should have known that the admissibility of the evidence was the first thing to be decided, and that its effect was to be considered after it had been received. The connexion of the conspiracy with the Milan commission was not the question they had now to grapple with. Whether that commission was a party to it—whether it was even aware of its existence or not—he still contended that he had a right to prove that there was a conspiracy. Suppose it had only resulted from the appetite for gain having been excited in the Italians by an idea of the lucrative nature of the speculation; that persons, be they who they might, had engaged themselves in suborning witnesses, and that it was not at all within the knowledge of the Milan commissioners—it would still be a conspiracy—the guilt would be the same as to all the parties who were engaged in it: its effect in this case would be the same; and therefore he contended, he had a right to prove it. If they could show that the Milan commissioners had been abused—that evidence had been procured, without their knowledge, by corrupt and profligate means—that, he contended, would dispose of the case. They might prove a conspiracy; that would at once put an end to all further proceedings, although they could not trace it to headquarters, or to the commissioners who were sent out to Milan. But, said the Attorney-General, “Why don't you call Zangli?” What! call him—call the very culprit whom they charged with the crime—call him to prove it by evidence of his own acts! Could his Learned Friends who argued thus have been studying those very cases to which they had referred? Had they there found that Mr. Hardy, Mr. Thelwall, Mr. Tooke, Mr. Stone, or any of the parties charged with

the crime, had been taken from the bar, and placed in the witness-box to prove their own acts in evidence of that charge? They charged the guilt of this conspiracy against Zangli; and had he been a resident in this country, or within the range of its laws, or the reach of its legal power, they knew, though for their own purpose they chose to forget, that they could not make him criminate himself; but it was really too much to suppose that, living where he did, out of reach of the vengeance of our laws, that he would readily comply with any invitation, or letter missive, to come and place himself at their bar to give evidence of this conspiracy, when the weight of the charge lay against himself: such a case would be quite new to him. He contended that it was competent for him to prove facts—namely, the declarations of this man—in order to show the real nature, quality, and character of his transactions. His Learned Friend wished him to prove two things at the same time—the existence of the conspiracy, and the agency of Zangli. To this he would answer, that the declarations of the man were proofs, and strong ones. When his Learned Friend referred to a particular text-book (which by the way, did not contain the dictum of a judge) he must observe that he (Mr. Williams) could quote in his favour the grave opinion of many celebrated writers on the law, who held that it was at the pleasure of the prosecutor to begin with whatever part of his case he chose first. This he would venture to say he had seen, in twenty instances, pursued in practice. In all the state trials, and prosecutions of a similar nature, evidence was gone into of the general state of the country, and of a variety of various persons in different parts, in or to fix a conspiracy; and to show whether any connexion existed between that conspiracy, and the person charged, appeared afterwards. The conversation of Zangli, showing that he was a person implicated in a transaction of the nature charged—a conspiracy to suborn witnesses—ought to be received, inasmuch as it might lead to a development of the whole scheme. If they could not catch the conspirators in close detail, they must be content to hunt them down by detail. Therefore he conceived that the evidence which he offered was as clearly admissible as any that had been brought before their Lordships. Unless the practice to which he had referred, and the rule laid down by the judges, on which it was founded, were proved to be erroneous, he contended that this evidence ought to be admitted. He hoped his Learned Friend, in answer, would confine his reply to what he had said and what he really meant, and not again contend against what he had not said, nor against meanings he never had conceived.

Mr. Brougham said he ought to apologize  
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to their Lordships for addressing them, after the clear, and, in his humble opinion, the conclusive argument of his Learned Friend: but he would abstain from making any apology, because he was anxious not to waste their Lordships' valuable time. Their Lordships now understood exactly what he and his Learned Friends did not mean; viz. that they did not mean to give evidence with respect to the conduct of Colonel Browne. Nay, that they did not intend, at present, to tender evidence with a view to fix Colonel Browne, or the Milan commission, at all! That was not the object of the present inquiry. He and his Learned Friends had been engaged with that commission during some portion of those proceedings, and perhaps they would recur to them again. But it did not follow, because he was not going to fix Colonel Browne, and the whole of his conduct at Milan, with this conspiracy, that he was therefore to be prevented from giving evidence with respect to other conspirators? If he could show that there was another man, although that individual had never before been named, who had been perpetrating acts, illegal acts—their Lordships might call them what they pleased—at Milan, who had been thwarting her Majesty's defence, impeding the evidence for her, and exasperating the evidence against her—he cared not whether he was called Colonel Browne, A or B, or Zangli—was he not justified in bringing forward evidence in respect to him? He hoped their Lordships would suffer him to give evidence against Colonel Browne. That course was admitted, because the Colonel was supposed to be an agent for the Bill. It was, therefore, for him and his Learned Friends to show that he was not the only agent; and that amongst those agents the name of Zangli was enrolled. They had been correctly told by his Learned Friend (Mr. Williams) that nothing could be more inaccurate than to mix up the argument of the admissibility of a witness with the ultimate effect which it is supposed would be produced by that evidence. Now, if he could show to their Lordships that Zangli had made the declarations with which Mr. Williams opened—that he had made offers, and had endeavoured to suborn witnesses—they must be prepared to allow proof of those declarations, or else at once to shut him out from giving evidence on those points, by saying that they were irrelevant to the issue to be tried. They must be prepared either to open the door for proof of this description, or ready to declare that, allowing all he had alleged to be true, still it signified nothing, and could not be given in evidence, as it did not affect the case immediately under inquiry. It had suited the purpose of his Learned Friends on the other side, when this had been treated as a judicial proceeding, to

argue that it was a legislative one; and when he and his Learned Friends took advantage of it as a legislative proceeding, they were immediately turned round upon, and told that it could only be considered in a judicial point of view. He however, contended that they were engaged in an inquiry partaking both of a judicial and legislative character. It was so from the foundation upward: and the two qualities were so nicely balanced that he hardly knew to which it most properly belonged. They were, however, entitled in all respects to avail themselves of any advantage that might result from that circumstance. How did the case stand? This was a bill, and they were called on to oppose its second reading; they must, therefore view it with reference to the subject matter of the whole inquiry. Could their Lordships then say—for they must do so, if the evidence now offered were refused—that those acts of Zangli to corrupt witnesses who were to support that Bill before their Lordships could not, whatever view their Lordships took of the case, have a considerable effect on the opinions they would form? He would put it to the judges—he meant the Noble Lords who were to decide in this case—whether they would not pause before they passed this bill, if he were allowed to prove to their satisfaction that which his Learned Friends had stated in opening the evidence. He cared not whether the acts and sayings of Zangli could be brought home to Colonel Browne or to Villmarcati, or to their employer, or not, though that would be matter of consideration for their Lordships hereafter; but if they could never be brought home to any of those parties, he asked whether their Lordships would not pause, more after hearing this evidence respecting Zangli, before they passed any judgment upon the bill before them, than they would have done without such evidence? For what had Zangli done? He said to this witness, "Swear any thing against the Princess of Wales, and you will get a great reward." "I cannot," replied the witness, "I know nothing against her Royal Highness; I have never even seen the place where she lives." "It does not signify," Zangli says, "I'll show you the place, I'll point out to you the rooms where she was, the places where she walked, the garden, the walks, the promenade, where she has been with Bergami, and with other men and women, for she has really been there with those persons. If you do but choose the place to which you will speak, you will swear what is true that she has been there, and if you will further swear what is not true, that you saw Bergami saluting her there, you will have a great reward." If he would prove this—and they must assume upon the question of the admissibility of such evidence that he could prove it—then their Lordships

must be prepared to say that this would make no difference in their minds when they came to consider the whole case before them; they must be prepared to say that all this would have no weight at all in their judgment, in order to come to the conclusion that this evidence could not be received. How monstrous it would be to say that proof of proceedings of this nature would have no weight with their Lordships? Could any Noble Lord lay his hand on his heart in judging of the whole subject at issue, in deciding upon a bill to ruin the Queen, and say that proof of such means having been used to obtain evidence against her Majesty made no difference in his mind? But the Solicitor-General contended that would make no difference at all, and that, whether proved or not proved, the facts were perfectly indifferent in the case. He (Mr. Brougham) did say, then, that the door ought to be opened for evidence, which, whether it affected Colonel Browne, or Villmarcati, or Zangli, showed the means used to obtain witnesses against her Majesty. If it showed perjury, it would be a ground of pausing before their Lordships came to any conclusion unfavourable to her Majesty. But it had been said, and with due gravity, that we must assume conspiracy on both sides, because if subornation of perjury was resorted to, *non constat* that the Queen had not resorted to it and procured it, to be practised on the other side, in order to enable her counsel to make the objection that the evidence against her was all suborned and perjured. Let their Lordships then take the evidence now offered, subject to that observation, and let that observation have its full force with their Lordships when they came to weigh the whole evidence. There was one consideration which, if he might but mention it, would perhaps allay somewhat the ardour of this observation. He did not deny the possibility of such a conspiracy, nor could he deny that such a possibility affected a point of law such as he now argued: but did their Lordships think it very likely to affect a bill of this kind? In the month of March, 1818, before any surmise arose of any charge against her Majesty—before the Milan commission was appointed—before any steps were taken against her honour or dignity, the Queen was so provident as to provide for distant possibility, so astute as to prepare defence against a charge that was never made; she was so very circumspect, so extremely provident, as to contrive, in March, 1818, her defence to a Bill which she foresaw would be brought into parliament in July, 1820, two years afterwards, (*a laugh*)—a Bill which the wisest of men never foresaw, and the wiser they were the less could they foresee it. Yet she, with the volume of Bennet's trial in one hand, and the volume of Atterbury's in the other, said in March, 1818, "I must beware

how I can defend myself against the Bill that is to be brought against me in July, 1820. Learned Counsel can do nothing without materials; therefore I must contrive to involve Zangli into conversation, which will afford ground of objection to all evidence against me." This was something more than the most provident of woman-kind or man-kind had ever devised; and it is not the wisest that could have taken a step at the distance of two years to make a charge against herself, which her own contrivance made sure to be brought against her. He did not deny the possibility of such conduct, but it was what lawyers called a remote possibility, and their Lordships would not be apt to stand upon such a possibility in deciding this question. But after they should have heard the whole evidence, then would they be in a situation to judge of all the circumstances and facts given in evidence before them; and he begged that when they came to be in that situation, they would not forget this remote possibility. He again repeated that they were not there to offer evidence against Col. Browne and the Milan commissioners; they were there defending her Majesty; in that defence they were necessarily obliged to show the manner in which evidence was obtained against her Majesty. If they could make out one fraction of a fraction of a case that Col. Browne, Vilmarcati, or Zangli, as agent for the Milan commissioners, suborned any part of the evidence, it was most important to the defence. But if, in offering such facts in evidence, they were met by the Milan commissioners or Zangli as defendants, instead of being considered themselves as defending, this would be setting all memory of the antecedent proceedings at defiance; it would be a forgetting of the situation in which they now stood, and of the commencement and preceding progress of this proceeding. If their Lordships should act upon this false and bungling view of the Queen's defence, it would be doing grosser injustice than the passing of the Bill itself. Bad as that would be, he could fancy the steps taken as means of getting it passed worse than the passing itself. They therefore were still defending, and their Learned antagonists were still prosecuting, and in that relation must they be now viewed.

The Attorney-General replied.—Whatever misunderstanding might have existed yesterday, his Learned Friends could not complain that they had not now argued on every view which they could take of their proposition. But if he had misunderstood his Learned Friends yesterday, or if their Lordships had misapprehended their application, why had they not interrupted him? He denied that there had been any such misunderstanding on his part, or any misapprehension on the part of their Lordships. He called back to their Lordships' recollection, that

his Learned Friend, Mr. Williams, had yesterday contended that rumours, reports, and even opinions, ought to be received in evidence, and that in that stage of the proceeding Zangli's evidence was therefore admissible. His Learned Friend, Mr. Brougham, had now given up Mr. Williams's argument, and for the last half-hour had been contending for the admissibility of this evidence on other principles. Their Lordships were to abandon the rules on which they had hitherto proceeded, according to the declamation and address of his Learned Friend, Mr. Brougham. It was now a conspiracy, unconnected with the Milan commission, a conspiracy of Zangli's that they proposed to prove. It was not acts of those who had been employed in collecting evidence. Their proposition now was to prove a conspiracy on the part of one of whom they had given no notice hitherto. Although A and B should never be connected, or brought together, yet their Lordships were called upon to receive their evidence of unconnected, insulated acts, to establish a conspiracy of which there was no evidence, and to prove a connexion of which there was no proof. (*Repeated cries of "Order, order,"* in consequence of the noise in the house occasioned by noble Lords leaving their seats.) What would have been said if he had opened as a part of his case what had been heard and what said respecting the Queen? He would have been met, and properly met, by the objection that it was not evidence. What would have been said if he then should say, "Receive this evidence, acting as legislators, for though it may not be proved to be connected with her Majesty's conduct, it may have considerable effect upon your minds, and on the judgment which you are to pronounce?" The rules which their Lordships had hitherto adhered to—rules which had been found in the courts below to be the best calculated for substantial justice—their Lordships were called upon now to abandon, because his Learned Friends could prove insulated acts of Zangli and another, in March, 1819—acts not adopted by those who collected evidence, and not intended to prove any improper motives on the part of those who actually gave evidence. If their Lordships admitted A., B., and C., to prove, not that suborned witnesses had been examined, but to prove the subornation of witnesses not examined, it would be impossible for any prosecution even to meet such a case as might be made in defence against him. His Learned Friend, Mr. Brougham, said, "Oh, we don't accuse Colonel Browne, we don't accuse Vilmarcati, we are now only for the defence." This was the language of his Learned Friends now, because they found it convenient. This defence of their proposed mode of proceeding had been resorted to only within the last two days, and he could see



the object of it. But they did mean to implicate, they had endeavoured to implicate the Milan commission. His Learned Friend, Mr. Williams, had argued that he (the Attorney-General) had said they must call Zangli. He had not said so; but he had said, and still said, if they meant to prove the conspiracy, they must call Zangli, and for this purpose Zangli was a perfectly competent witness. If they did not call him, they must allow all evidence to prove that his acts were adopted by the Milan commission or by others for them. Where a co-commissioner as one of the persons implicated in the evidence, the evidence might be admitted as against all the commissioners, but no such commission was proved. In this case conspiracy had never been proved. First, the Milan commission was charged with conspiracy: then another; now it was only Zangli. In the courts below evidence affecting a conspirator was admitted as affecting all the conspirators, but here no co-conspirators were proved to exist. It was shutting their eyes against the rules of law, and against the practice of the courts below, to say that before a conspiracy was proved, they might allow all evidence to prove the acts of any one conspirator. How, then, stood this case? No evidence of a conspiracy was before them, yet evidence had been offered which could apply only after a conspiracy had been proved. His Learned Friend had argued against supposing a conspiracy in March 1818, respecting this Bill, not thought of at that time, and this proceeding not then in contemplation. The case for the Bill had been restricted, he would not say improperly, but it had been restricted within the strictest confines of law; and now they were called on to depart from those strict rules, because evidence was offered which might affect their judgment hereafter. But this ought to have been before thought of; either they ought not to have confined the case for the prosecution within strict limits, or, having done so, they ought not to depart from those limits. Whether their Lordships acted judicially or legislatively, whatever rules they had adopted to be acted on judicially, they were to adhere to; and if on this occasion they departed from them in a legislative character, they would do the greatest injustice. He might with submission say so; and if they did not adhere to rules which they had established and acted on hitherto, they would act in a manner contrary to all precedent.

Counsel were then ordered to withdraw.

The EARL of DONOUGHMORE said, that the Learned Counsel for the Queen had brought themselves under the decision of the Learned Judges which had been given on the point now in discussion. The Learned Counsel had alleged a conspiracy, and gone into evidence whence this question had arisen

in support of this conspiracy. They had, therefore, placed themselves exactly under the decision of the Learned Judges. Their Lordships had heard the statements on both sides, and the previous examination of this witness; therefore all the facts were before them for their determination. He was at a loss upon what possible grounds this testimony could be received in any court whatever, unless they would say that they could not shut the door against any evidence, if only conspiracy were alleged. Any man who might be willing to say, "I believe I heard that there is a conspiracy," they must hear that man, if they received the present evidence. Provided the Learned Gentlemen should stand up and say, "Conspiracy! For five days we have done nothing but talk of conspiracy, therefore your Lordships must believe that there is a conspiracy, and receive evidence upon that ground"—provided Counsel said so, any man must be allowed to give evidence. Their Lordships must therefore agree as to the existence of a conspiracy, and every thing would be clear after that. Who was this man now at their bar? Had he any knowledge himself of the subject? What had they to do with the acts of Zangli, or with what he might say through the mouth of this witness? If they admitted this, what other man in Milan might not be implicated, with whom the man at the bar might say he heard mention of a conspiracy? Some of the witnesses examined were, he admitted, of such a description as to require a very great degree of suspicion. But if they were suspicious, and if some agents had been doing what was very improper—and something of that had appeared in evidence—what was the inference but that their Lordships should weigh very scrupulously the evidence where such improper inference occurred. But was the Counsel to say "Discredit the whole mass of evidence because of that interference?" He would not do so, and no judge would do so. Because there might be evidence to show that different agents had gone much beyond the line—he would not say, whether that was his opinion or not—but if there should be such proof, was the whole of the evidence therefore to be rejected? Conspiracy was alleged. Conspiracy was a hard word, a very hard word. Perhaps the conduct of agents was improper, perhaps there had been attempts to corrupt evidence. Was that conspiracy? Were they to call that conspiracy? There were no facts proved to bring it to his mind that he was sitting on a trial of conspiracy, although for 4 or 5 days no other issue had been before them. Every thing respecting the defence of the Queen had been forgotten. The object was this:—They said, "We will turn the tables upon you; we shall discredit some of the witnesses, and we shall upset the whole cause." But his mind would not be



diverted by the cry of conspiracy, however frequent, and however loud, in doors for out of doors.

LORD BRSKINE said, he felt some difficulty to bring the present question within the opinion of the Learned Judges. He could not agree with his Noble Friend that no evidence could be given of a conspiracy in this case; the contrary had been decided by their Lordships, and the Learned Judges had given an opinion upon the admissibility of general evidence to prove a conspiracy. He could not agree either with the Learned Counsel, that the existence of a conspiracy must first be proved, when the very object of the evidence offered was to prove that existence. If they objected to the evidence before the conspiracy was proved, it would be impossible ever to prove a conspiracy. But the difficulty he felt was this:—Zangli was not a witness; he was not proved to be an agent; there was no act of his connected with the evidence in support of the Bill. His opinion was, therefore, that the question could not be put. Zangli was not in any view sufficiently connected with the case to admit evidence of his sayings and acts.

The LORD-CHANCELLOR considered, that if this question were allowed to be put, it would form a perfect novelty in the proceedings of that House, whether the present were regarded as a judicial proceeding purely, or as a legislatively judicial proceeding. He implored their Lordships to consider this matter on both sides, and he should lament from the bottom of his heart, if this was a legislative proceeding, that it should be conducted, in any part, on any other than judicial principles. No agency was established here, but it was alleged that a conspiracy existed. Now, if they were to enquire of persons from Italy if they believed so and so—if a conspiracy was to be proved by such means, he implored their Lordships to consider where that was to end. (*Hear, hear*) It had been ably and powerfully stated by Mr. Brougham, as well as ably argued by Mr. Williams, that there might be certainties of such and such things being proved on one side, and no certainties of similar things being proved on the other side; but what would any one say if such evidence had been offered as he was just going to state; and when he put the case so for the sake of argument, he solemnly begged their Lordships not to infer that any such thing could have been proved. At the opening of the bill their Lordships must have observed, that it had been insinuated strongly that the illustrious person who was the object of the bill had found means of dismissing from her family and establishment all the English attendants who had accompanied her from this country, and had introduced into her family a person of the name of Bartolomeo Bergami; and it was

intended, no doubt, that a conclusion as to her purposes was to be drawn from these circumstances. These persons, alleged to have been so dismissed, had been called to the bar, and had stated the grounds that had induced them to leave her Royal Highness; they had stated that they quitted her service on grounds operating on their own minds, and that they had not been dismissed by her. Now, he submitted, what would have been thought if the supporters of the bill had called persons to their Lordships' bar to prove that Bergami had been heard saying things which showed that her Majesty had dismissed these persons for the purposes stated in the bill? If the charges in the bill were to be met by general declarations as to the conduct of persons not connected with the business, their Lordships might get rid of the bill; but they would get rid of it at the expense of all the protections which were the great safeguards of public justice, and the preservation of which was essential to the public good.

LORD REDESDALE, in a low tone of voice, argued against the purposed course of examination.

EARL GREY intended to trouble their Lordships with only one or two words. He understood the House to have already decided that evidence as to conspiracy was admissible. The only question now to be decided was whether this evidence was addressed to that purpose; and he confessed that he agreed in opinion with those who thought that this was evidence which could not be admitted. But with regard to the case put by the Learned Lord on the woolsack, of evidence offered by persons out of England as to Bergami's saying things that would criminate the Queen, he must observe that such evidence would not have been admissible on any grounds, and therefore it had no analogy to the present case; for here, if the evidence tendered were evidence of conspiracy, it would unquestionably be admissible. In some way or other, he thought Zangli must be proved to be connected with the evidence of a conspiracy to suborn witnesses. Now, had any such been given? A conspiracy must, *ex vi termini*, consist of several persons; but Zangli was not shown to be connected with any person whatever, much less with any agent against the Queen. All the evidence respecting him was, that he came out of the house of Vilmarcati, and that he offered this witness a sum of money.—Now, was this such a proof of his connexion with an agent against the Queen as could be sustained? Their Lordships had admitted evidence to show that Rastelli and Reganti, and also Vilmarcati, had endeavoured to suborn witnesses; but, before receiving that evidence, it had been proved that each of these individuals had been some way connected with the Milan commission. It did not,

however, appear to him (Earl Grey) that there was any such evidence showing the connexion of Zangli, otherwise he should have said that the evidence now offered ought to be received. These were the reasons for which he thought it could not be admitted, conceiving, as he did, that it stood on very different grounds from the other evidence that had been received as to a conspiracy.

The LORD CHANCELLOR then put the question, "That Counsel be called in, and informed that it is the opinion of this House that the question cannot be put to the witness, which was carried unanimously.

Counsel, having been called in, were informed by the Lord Chancellor of the decision to which their Lordships had come.

### ANTONIO MATONI

*Recalled and his Examination continued by Mr. WILLIAMS.*

You stated yesterday that you went with Zangli from Venice to Milan? I did.

Did you return from Venice with Zangli? Yes; but before I went Domanga went with him.

But I want to know if you went from Milan with Zangli? Yes.

How many days were you at Milan?—

What is the distance from Venice to Milan? About 185 miles.

Did you pay your own expenses, or did any one pay for you? I did not pay even a hundredth part (*cent*): Zangli paid the whole.

Mr. Cohen, the Queen's interpreter, said the word *cent*, used by the witness meant the hundredth part of a *livre*.

The Marquis Spinetti admitted that the word was used to denote a French coin of that value.

Mr. Brougham.—And why did you not add that?

What does the witness mean by the word *cent*? One hundredth part of a *livre*.

Had Zangli any business of his own at Milan? None. He went only for this purpose.

What do you mean by "This purpose?" What was the object you allude to?—

The Attorney-General objected to that question.

Mr. Brougham.—We only want to know the witness's own meaning.

The Attorney General then begged to interpose a question as to what was the witness's means of knowledge.

Mr. Williams said he would put the question in another way.

Did you see Zangli do any other business but in the *Porta Orientale*? He went also to look after the other manager of the theatre, together with a person of the name of Domanga.

Did you go with him, or do you only know from what he told you? We found him at the coffee-house.

Who? Zangli and I, when we went to the coffee-house.

You stated yesterday that you saw Zangli come down stairs with a quantity of Napoleons in his hand? Yes.

At that time did he make you any offer?

The Attorney General objected to the fact, as not evidence.

Mr. Brougham.—If their Lordships considered that their former decision referred to such a fact, her Majesty's Counsel had no desire to detain their Lordships.

The LORD CHANCELLOR thought the former decision applied to this question.

Mr. Brougham.—Are we to consider that decision as applying to all facts of a similar nature?

The LORD CHANCELLOR.—The house would act extremely improperly, Mr. Brougham, in giving an answer to that question; for you may think a case similar, when the house may think it different.

Mr. Brougham confessed, then, that he had no other kind of evidence by which to connect this individual with the Milan commission. Rastelli was off, and thus the clue was cut short. Zangli they had not, of course; and for want of that clue, they were not able to bring persons of the same kind nearer to the Milan commission than they had brought Zangli. Their Lordships thought, that Zangli's being seen coming out of Col. Browne's house was not sufficient to prove that he was an agent, and her Majesty's Counsel had no other kind of evidence to offer.

The LORD CHANCELLOR said, he had communicated to counsel the decision of the house, and he could only say that he left it to the discretion of Counsel to put what questions they had pleased to the witnesses. Of this he was sure, that it could not be left to better discretion.

Mr. Williams said he had no other questions to put to the witness.

The Attorney General had no questions to put.

By the EARL of LAUDERDALE.—When you saw the Napoleons in Zangli's hand, were they loose, or in a bag, or in a paper? He had the hand *thus*, full; and he has a large hand. (*A laugh.*)

Had you any concern with the theatre at Pesaro? No other but that I have written to her Royal Highness informing her—

Mr. Brougham desired the interpreter to stop. That answer was not evidence.

The EARL of LAUDERDALE thought they ought to hear the whole of the answer before it was objected to.

Mr. Brougham said it had been the uniform practice to object to an answer when it came to that point at which it was irregular.

He had not interrupted the interpreter till he came to "I have written to her Royal Highness informing her"—

The LORD CHANCELLOR.—You are right, Mr. Brougham.

The EARL of LAUDERDALE said, the answer of the witness was no answer to his question.

The LORD CHANCELLOR remarked, that was a different thing altogether, and the question might be repeated.

Had you any concern with the theatre at Pesaro? Never.

By the EARL of CARNARVON.—Do you know if Zangli was ever in the service of her Royal Highness? I do not know.

The witness was then ordered to withdraw, and

*DOMINICO SALVADORI* was called to the bar, and sworn.

Mr. Brougham begged their Lordships' pardon for interrupting the examination for one moment. He had said, that all the last witness's remaining evidence referred to the same subject; but he found that there were a few other questions which it was intended to put to him, and he hoped he should have the privilege of recalling him afterwards, if it were thought necessary.

*DOMINICO SALVADORI* examined by Mr. DENMAN.

What countryman are you? I am a native of Treviso.

What business do you follow? I am a professor of Italian and Latin literature.

Were you ever at Morge? I was, in December, 1818.

Did you see Sacchi there then? I saw him at Milan.

Did he hold any conversation with you regarding the process against her Royal Highness the Princess of Wales? He has.

Did he give you any counsel, or make any application to you on that subject?

The Attorney-General hoped his Learned Friend would have the candour to point out the part of Sacchi's evidence to which the present questions referred. He had no recollection of any questions having been put to Sacchi on the subject of his making any application to the present witness.

The witness was asked if he understood English; and having replied that he could write English, but could not speak it, he was directed to withdraw.

Mr. Denman said his Learned Friend objected to his putting these questions to the witness without pointing out that Sacchi had been examined respecting what he said to this witness. His Learned Friend took it for granted that he (Mr. Denman) wanted to contradict Sacchi; but that was not the case. He wished to prove that Sacchi had made application to this witness, as to others, to give

evidence against her Majesty; representing to him that others had made their fortunes by that means, and that he might do the same if he chose. The evidence that Sacchi was an agent of the Milan commission would be founded in pages 448 and 449 of the printed minutes: it was as follows:—

"Were you ever at Colombier? I have.

"How long have you been at Morge and Colombier at a time? About 6 weeks.

"Did you let it be known by every body there that you were in that neighbourhood, or did you conceal yourself? I made myself known to all.

"Under what name did you go there? By my own proper name, Sacchi.

"Had not you money in your name at a banker's at Lausanne? I had.

"How much had you there in your name? Fifty louis.

"Will you swear you had not more than that at one time at that banker's? I had no more than those 50 louis.

"Will you swear you never had a credit which empowered you to draw upon that banker for a larger sum than that? I never had.

"Have you never represented that you had a larger sum or a greater credit? I do not remember to have said so.

"But you will not swear that you have not said so? I cannot swear when I am in doubt.

"Did not you fetch a certain Mademoiselle De Mont from Switzerland to Milan? I did.

"Did you bring her back? I did not.

"But you went to prevail upon her to go to Milan, did you not? Not to prevail upon her, but to ask whether she would go or not.

"Who employed you to fetch her, or to procure her attendance? I was desired by the commission at Milan.

"Did you tell any person in Switzerland that De Mont was gone back, or going back, to return into her Royal Highness's service? Never.

"Whom did you come over, yourself, to this country with? A courier, called Mr. Krous, and my servant.

"Is that Mr. Krous the person who was lately arrested at Paris on a charge of having dealt in forged notes? I never heard speak of that.

"Did Mr. Krous come over with you to London or remain in Paris? He came with me over to London.

"Is Mr. Krous a regular messenger, one of the King's messengers, or only employed on the Milan commission business? I do not know.

"Have you made any other journeys with Mr. Krous? I have not.

"How much money did you get by the Milan commission for your trouble while you

with a view to impeach his evidence? With respect to Rastelli, the advice their Lordships had received from high legal authority was, if he spoke correctly, that the general rule of law was this:—They could not call a witness to prove whether a declaration was made by another witness, for the purpose of trying the truth of the assertion, without they first asked the question of the declaring witness himself. This was done in the instance of Majochi: as to Rastelli, their Lordships had thought it right to call him back to their bar, but he was not then forthcoming. There was another party, of the name of Reganti; and, with respect to him, the evidence given in support of the Bill had certainly gone to prove that Reganti had been sent for the purpose of procuring witnesses, and of collecting evidence; but, before such evidence was admitted, it would be in the recollection of the House, that a witness had been called in defence of the Bill, who proved certain acts of Reganti; and he (the Lord-Chancellor) apprehended that they could not reject or stop that sort of testimony till they got to the proof that the evidence of the acts of Reganti was not to be believed. The question for their Lordships was simply this—Could they upon this question, because Sacchi had been a witness in the cause, now ask for his alleged declarations, when they had already had the opportunity of telling him what those declarations were, without so telling him? The course to be pursued was, in his apprehension, this—If they meant to make Sacchi's declaration evidence, Sacchi ought to be called in, and asked if he had made it. This course would depend naturally upon the opinion of their Lordships as to whether the acts of Sacchi constituted him an agent or no; or whether they collected from the evidence that he had any character, beyond that of a messenger, to bring witnesses before the commission, being employed for such a purpose; or whether, if they did, such circumstances did, or did not, affect the credit of Sacchi?

LORD ERSKINE agreed with the latter part of the Noble and Learned Lord's definition of the question, viz.:—whether these acts did not go to affect Sacchi's credit. It was so long ago since he practised the profession of an advocate, that he could hardly speak with any degree of knowledge upon what might be the general feeling which would now be entertained by that profession; but he knew this—that, at the time when he formed one of them, if a witness had been examined to give one tittle of evidence on either side, and he had afterwards found out that that witness had been bringing up other and fresh witnesses, and he (Lord Erskine) could have proved that the man himself was a corrupt person, endeavouring to beat up for new evidence, he would have said, it was quite clear that there was enough established

against such a witness utterly to discredit his testimony. He thought the proper course would be, not to call back Sacchi in the first instance, but immediately then to proceed with the examination of the last witness (Salvadori).

EARL GREY felt bound to concur in some of the principles laid down by the Noble and Learned Lord. If their Lordships agreed to examine any thing but the acts of any persons, or any thing which was not immediately connected with specific acts, it would open, he feared, a door for the most dangerous encroachments on the laws of evidence, and go so far to make the present proceeding almost interminable, that he found himself, however reluctantly, compelled to reject such evidence as that whose admission was contended for, great as might be the difficulty of obtaining it of a more direct and substantial nature. But he would first ask, how did they stand in this particular case? Upon very different grounds. There was, perhaps, no strict legal technical proof of agency adduced; but there was a great connexion established between Sacchi and the Milan commission as must induce their Lordships to hear what had been done by Sacchi, in the prosecution of his employment, the obtaining of witnesses, in order that they might ascertain whether he could be proved to have attempted to corrupt some of them.—He (Lord Grey) said, therefore, that though there was not, here, that direct proof, which in all cases the law would require in the Courts below, yet there was that established which must make their Lordships think it right to pursue the inquiry, even in the absence of such complete proof. But it did appear to him that the ground for such further examination and inquiry was this—that the matter before them affected the credit of Sacchi. What was the fact? Sacchi was a witness in this cause; and he had been endeavouring to corrupt other witnesses. Who would believe him? Who could suppose that a man who had been attempting to purchase the perjury of others would have any scruple in swearing falsely himself?

The EARL of LIVERPOOL could not decide whether it would not be better to call back Sacchi first, or allow the question in dispute to be propounded to the witness.—But there were points in the speech of the Noble Earl (Grey) in which he by no means concurred. If Sacchi had been sent to Lausanne to procure witnesses generally, on that ground this information of the witness was to be admitted. The degree of Sacchi's agency in that case would justify such an admission; but as, in evidence before the House, there was no ground whatever for believing that Sacchi was sent for other purposes besides the special purpose of bringing Mademoiselle De Mont, there could be no



ground whatever for his conduct on that occasion being the cause of such a course as that proposed by the Noble Earl. The case was very different from that of Reganti, who was proved to have been otherwise employed.

EARL GREY explained, and contended that, if the corruption of Sacchi could be proved, he was not to be believed.

The EARL of LAUDERDALE expressed his entire dissent from the Noble Earl (Grey).

The Solicitor-General wished to know whether the question intended by his Learned Friend was to be put for the purpose of ascertaining any thing which had been said by Sacchi, or upon what other grounds? He begged to be informed by their Lordships in what way they meant to allow the question to be shaped.

The LORD CHANCELLOR observed, that it appeared to be the opinion of the House that the question should be asked; and he was not called upon to state any grounds of his own.

The EARL of LAUDERDALE could by no means acquiesce in the opinion just expressed by the Noble and Learned Lord on the wool-sack. (*Hear, hear, from the Ministerial benches.*)

The LORD CHANCELLOR had perhaps been too hasty in expressing what he had conceived to be the opinion of the House. They would do him the justice, however, to admit that he had himself distinctly stated his objections, notwithstanding the circumstance of Sacchi's having been a witness; and these objections proceeded on two grounds: first, that Sacchi had not been an agent; and, secondly, that his declaration could not be inquired into until Sacchi himself had been called to speak to it.

LORD ERSKINE confessed that he thought this a most extraordinary case. If he could prove that a witness had been endeavouring to corrupt other witnesses, and therefore giving cause for doubting his own evidence, his wish was to prove, not a declaration, but an act; and therefore the argument which was founded upon the necessity of Sacchi's being necessarily first examined to his own declaration fell to the ground.

LORD HOLLAND thought the proper course would be to take the opinion of the House upon a motion framed by the Noble and Learned Lord.

LORD GRENVILLE recommended the calling in of the Counsel on both sides, for the purpose of arguing this question.

The House testifying its assent to this proposition,

The LORD CHANCELLOR having directed Counsel to be called in, said, that he was directed by their Lordships to inform them, that the House considered the admis-

sibility or non-admissibility of the question, as specially argued and settled, on the ground of the agency imputed to Sacchi. Their Lordships were now willing and desirous to hear any other grounds for the admissibility of the present witness's testimony, or its inadmissibility, which the Counsel on the other side might think proper to offer.

The Attorney-General objected to the evidence, and to the question arising out of the argument upon it. The objection as affecting Sacchi's credit was perfectly untenable in point of law. The imputation was, that Sacchi had been concerned in such attempts at corruption as affected his credit and testimony. How was it competent for the Learned Gentlemen opposite to affect the credit of a party by collateral testimony, unless they were prepared to produce the record of some conviction? There was no rule of law so clear as that a collateral issue could not be tried upon the character or credit of a witness.

Mr. Park followed on the same side, and referred to the last edition of Phillips's *Book of Evidence*, in which it was laid down that "the party against whom a witness is called may disprove the facts stated by him, or may examine other witnesses as to his general character: but they will not be allowed to speak of particular parts of his conduct; for 'though every man is supposed to be capable of supporting the one, it is not likely that he should be prepared to answer the other without notice;' and even if he should happen to be prepared to defend himself, such evidence might generally afford a very slight and imperfect test of his credibility. The regular mode is to inquire whether they have the means of knowing the former witness's general character, and whether from such knowledge they would believe him on his oath." Such was the rule as laid down in the book he had quoted: but his Learned Friends opposite meant to go even farther than was prohibited here, for they wanted to go into proof of the criminality of a witness without insinuating even the charge to him while under examination, or affording him the slightest previous opportunity of explaining or vindicating his character.

Mr. Brougham said that he was perfectly ready to agree with his Learned Friends in the principle of the general rule of law as laid down in Mr. Phillips's *Book of Evidence*. He was perfectly ready to agree with his Learned Friends at the other side that he could not discredit the acts or declarations of a witness, into which acts or declarations he had, with a knowledge of them previously, omitted to inquire. He was also perfectly ready to admit that, in order to discredit the witness of an adversary, he had no right to offer evidence which went to impeach his testimony for acts done out of the particular case.



He was ready to admit all these rules generally; but at the same time he was prepared to state reasons why the proposed question to the witness ought to be put, and made an exception to the general rule: and for this short but conclusive reason—that the point upon which he wanted to inquire related to acts done by the witness in this particular case. He agreed with his Learned Friends that he could not call evidence to discredit a witness upon a point of which that witness could not be supposed to have previous notice. But every man must be supposed to have notice of his own previous acts, which he is always bound to explain and justify after they are impugned. Let Sacchi be brought afterwards to defend himself if he could, but at present they had a right to tender proof of his having attempted to suborn witnesses in the cause.

Mr. Denman followed on the same side with Mr. Brougham, and contended for the legality of the questions proposed to be put to the witness. He supposed a case, that, during a trial in a court of law, a witness should come forward and state he had proof that the attorney in the cause had attempted to suborn a witness on the eve of the trial—who doubted that the judge would hesitate to allow the witness offering such proof to be put in the box before he called upon the attorney to answer the charge? Their Lordships had, on a former occasion, given her Majesty's counsel the option of cross-examining at the time, or withholding their cross-examination until they had had an opportunity of making inquiries respecting witnesses. They could not have then known this evidence respecting Sacchi; but they now knew and offered proof of his having gone to Switzerland to bring Madame De Mont, and of his having gone about to suborn witnesses to commit perjury in this cause. Let the proof be given and then let Sacchi defend himself afterwards.

Mr. Park, in reply said that his Learned Friend who spoke last had, in his suppositions case, assumed the question of agency, notwithstanding that their Lordships had set that question at rest. (*Cries of no, from several Peers.*) He then quoted the opinion of Lord Ellenborough, in the case of *Harris v. Tippet*, page 285, in Mr. Phillips's book. The Noble Lord there said, speaking of the rule in which the party putting the irregular question to a witness is bound to take his answer—"And if the witness answers such an irrelevant question before it is disallowed or withdrawn, evidence cannot afterwards be admitted to contradict his testimony on the collateral matter. In the application of this rule the principal thing to be considered will be, whether the question be irrelevant to the points at issue between the parties. In an action for usury it would be entirely immaterial and irrelevant to cross-

examine the witness respecting other contracts, supposed to have been made by the defendant, unless the witness had first said the contracts were the same, and that was the point in the case of *Spencely v. De Willet*; so it would be irrelevant to ask a witness, in cross-examination, whether he had not attempted to dissuade another witness from attending the trial." He said that it was utterly impossible, without violating every rule of evidence, to suffer a witness to proceed with impeaching the testimony of another in the manner proposed, without laying some foundation for the proceeding in the examination of the party himself.

Mr. Brougham said that what he proposed did not shake the general rule.

The LORD CHANCELLOR said that being so long removed from the practice of the courts below, he could not without delicacy allude to the rules of evidence as now administered in them. In the last quoted they had the high authority of the late Lord Ellenborough, that under particular circumstances a witness could not be called to show that another had attempted to dissuade him from attending a particular trial. The Noble and Learned Lord (Ellenborough) thought such a course would, under the particular circumstances, be irrelevant. Now the point at present in issue might, perhaps, be not irrelevant: it might have some reference to this rule, and yet be not determinable by it; for, as Lord Coke said, *nullum simile est idem*. Would not the better course for their Lordships to take be to frame a question to the judges, with a view of ascertaining exactly the practice of the courts below? Would such a question as this suit the view of the House? When a witness for the prosecution has been examined in chief, and has not been cross-examined relative to a charge of suborning witness, was it competent for the defendant to call a witness to show acts of subornation or of declarations to do so, on the part of the first witness, without calling him back and inquiring from him respecting the alleged acts?

EARL GREY could see no objection to receiving the opinion of the judges; but, whatever that opinion should be, he thought it material the particular inquiry should be followed up. Here was proof tendered that a witness for the prosecution had not only corrupted others to give testimony in this cause, but had also given corrupt evidence himself. As to the question of agency, he by no means thought that question, as involved in Sacchi's conduct, set at rest; for, as the matter stood, he considered there were grounds for connecting Sacchi so with the Milan commission as to affix upon him an agency.

The EARL OF LIVERPOOL suggested whether, without taking the step proposed, there was not another way of avoiding both

this delay, and the further discussion of the points of law. Would not the difficulties be got rid of by calling Sacchi, and laying the foundation for the proposed evidence of the other witness?

Mr. Brougham.—Certainly, my Lords.—But the last time we asked for a witness he was not to be found. Let Sacchi be produced now, and we shall ask him the question.

The LORD CHANCELLOR said that if the witness were to be examined, he certainly ought to be brought forward now.

After a few words from Earl Grey and Lord Erskine, respecting the terms in which the question should be put to the judges,

The LORD CHANCELLOR inquired if it were the pleasure of their Lordships that the question should be put on the ground that Sacchi was an agent to the Milan commission.

The EARL OF LAUDERDALE could not concur in this designation of Sacchi, for how, he asked, did specifying the employment of this witness by the Milan commission affect the question? He might have been so employed, without being exposed to any charge of corruption.

The LORD CHANCELLOR said the question had better be put generally, for some Noble Lords might wish to have it answered who were not prepared to admit the agency of Sacchi.

EARL GREY was of opinion that here was proof of that degree of agency which justified this designation of Sacchi's employment. He readily admitted that employment under the Milan commission did not necessarily imply corruption; but surely the corrupt mind in the case of this individual was to be clearly inferred from the act of suborning witnesses, if such act could be established against him.

LORD HOLLAND stated, that he thought it would be preferable to have the question put generally to the judges, without involving the act of agency.

The LORD CHANCELLOR concurred in this opinion; and Earl Grey then acceded to it.

After a pause the LORD CHANCELLOR read the following question, proposed by Lord Erskine, to be submitted to the judges:—"Whether, if on a trial, or in any other case, in a court below, a witness is called for the plaintiff or prosecutor, who gives evidence against the defendant in such cause—and if, after the cross-examination of such witness by the defendant's counsel, they discover that the witness so examined has corrupted or endeavoured to corrupt another person to give false testimony—the counsel for the defendant may not be permitted to give evidence of such corrupt endeavour, by such corrupt witness, without calling back such witness?" The Lord-Chancellor also

again read to the House the question he had drawn up.

LORD REDESDALE proposed a verbal amendment, which we believed was adopted.

The EARL OF CARNARVON opposed the motion.—"That the questions be submitted to the judges." It seemed to him that the House could and ought to go into the inquiry proposed by the counsel for the Queen. It would only occasion endless delay to require the opinion of the judges upon matters of this sort, when the result might be, as yesterday, that the objection would be abandoned, and the House would proceed in a course directly opposite to what was at first contended for. Whether some part of the House considered Sacchi an agent, or only a witness, it was impossible to exclude from consideration, before evidence were given to him, whether he had not been active in endeavouring to suborn other persons to give testimony similar to, and confirmatory of, his own. Justice could not be done in this great case if the House excluded such an inquiry. (*Cheers.*) After what had fallen from the Noble and Learned Lord, and after the admission of the Noble Earl, who had fairly and manfully admitted himself to be the principal in this bill, it seemed idle to contest the point. For what reason should the House divide questions into the most minute points that could be devised, as if to puzzle itself, instead of coming to the conclusion that good sense dictated—that, for some reason or other, it was fit to admit the testimony that had been offered? He moved, accordingly, that all the words of the questions to the judges be omitted, for the purpose of substituting that the question proposed to the witness be put.

The LORD CHANCELLOR put the motion.

LORD REDESDALE said that he was quite clear that on the ground of agency the question ought not to be put to the witness; but upon the other points he entertained so much doubt that he earnestly entreated the question might be put to the judges. The arguments of counsel at the bar had produced a considerable effect upon his mind; and though he had expressed a more positive opinion before, he now hesitated much to say that the question to the witness ought not to be answered. (*Question.*)

The motion of the Earl of Carnarvon was then negatived, and it was carried that the questions of the Lord-Chancellor and Lord Erskine should be put to the judges.

The judges accordingly retired, but subsequently required that time should be allowed for forming their opinion.

The LORD CHANCELLOR accordingly suggested an adjournment, which took place at 25 minutes past 3.

**HOUSE OF LORDS,**

FRIDAY, OCT. 20, 1820.

The MARQUIS of LANSDOWN moved that the order of the house of the 21st. of August, 1820, requiring the attendance of the witnesses from day to day, should be read. This being done, the Noble Marquis called their Lordships' attention to the inconvenience which had arisen from the neglect to enforce this order. This was obvious from what had occurred yesterday, when much embarrassment and delay had arisen in consequence of this order not having been complied with. In the conversation which took place yesterday there had been considerable difference of opinion as to whether Sacchi should be called up, in order to lay a foundation for the questions counsel for the defence proposed to ask, or whether the questions should first be referred to the judges. In the course of the discussion the Noble Lord opposite proposed that Sacchi should be examined, and in that proposition he concurred; and the Queen's Counsel also gave their consent to it, on the condition that Sacchi should be immediately called up; but it appeared that Sacchi was then not to be found. Now there was a great difference between the calling of the witness immediately, as consented to by the Queen's Counsel, and his being called a day after. This the Learned Lord on the woolsack admitted. In fact it was easy to conceive that he might not now be called with the same advantage. He understood that Sacchi was not in London. [It was intimated across the table that he was in town.] At any rate he was not within reach when he was wanted yesterday. To this circumstance was to be attributed all the delay which had occurred yesterday, by referring questions to the Judges, and the long discussion which took place. All the trouble and loss of time which their Lordships had experienced would have been saved to them yesterday, had not their order respecting the attendance of the witnesses been allowed to remain a dead letter on their table. On this ground he had thought it necessary to call their Lordships' attention to the strict enforcement, in future, of the order they had made respecting the attendance of the witnesses.

The EARL of LIVERPOOL understood that the Noble Marquis had concurred with him in the proposition for calling up Sacchi: but the going into the evidence was passed upon two grounds, which were supposed to render the calling of Sacchi unnecessary; and on that account the questions were referred to the Judges. The delay, therefore, did not arise from the cause the Noble Marquis had assigned. He had spoken of Sacchi yesterday: he had inquired whether he was present, and was informed that he was at his lodgings, and that, if necessary, a mes-

senger would be sent for him. He was not out of London, as the Noble Marquis had supposed. The agents of the prosecution, he doubted not, would take care that such a circumstance did not occur again; and he had no objection that they should be enjoined to pay strict attention to the order.

The MARQUIS of LANSDOWN understood that the question had been put to the Counsel at the bar, whether they would wish Sacchi to be called up? and that they had answered, that they had no objection if he were called immediately.

The LORD-CHANCELLOR really understood that her Majesty's Counsel had declined calling Sacchi. (No, no, from many of their Lordships.) He did not mean to say that the fact was so; he only stated what, on his honour, was his impression. The first intimation which he had had of the fact being otherwise was from seeing in one of those journals which are in the practice of taking notice of their Lordships' proceedings, that Mr. Brougham and Mr. Denman had, in answer to the proposition for calling Sacchi, called out "Now, now!" They might have said so, but certainly he did not hear them; and he was sure there were many of their Lordships in his part of the house who were in the same situation.

The MARQUIS of LANSDOWN had not made the statement on his own authority, he had made inquiry before he called their Lordships' attention to the circumstance.

LORD REDESDALE thought the non-attendance of Sacchi was a contempt of the House.

The EARL of LAUDERDALE undoubtedly understood that the Counsel for the Queen did not object to call Sacchi "now," meaning the time that the question was put to them. The Counsel on the other side stated that it was impossible to do so, and he (Lord Lauderdale) understood that Sacchi was then in the country.

Another order was made, directing that the witnesses should in future be kept in attendance *de die in diem*.

The Counsel were then called.

The Lord-Chief-Justice proceeded to read the opinion agreed to by himself and the other Learned Judges upon the questions propounded to them yesterday. The questions were—1. "Whether, according to the general principles of evidence to be received in the courts below, when a witness called for the prosecution had been examined in chief, and had not been cross-examined as to certain acts done, or declarations made by him, in order to procure corrupt evidence for the prosecution, would it be competent to the Counsel for the defence to prove such declarations and acts without first calling back the witness to examine him as to those acts and declarations?" 2. "Whether, if on any trial, in any case in the courts below,

a witness is called on the part of the plaintiff or prosecutor, and gives evidence against the defendant in such case, and if, after the cross-examination of such witness, you discover that the witness so examined has corrupted or endeavoured to corrupt other witnesses, the counsel for such defendant may not be permitted to give evidence of such corruption?" There was, in the opinion of the judges, little material difference in the hearing of the two questions. In the courts below, where the trial of a cause usually began and ended in the course of one day, it rarely occurred that any knowledge respecting the misconduct of a witness called in the cause, in endeavouring to corrupt other witnesses, suddenly took place. The forms of proceeding were such, that every party came fully prepared, and due notice was easily had of all the issues to be tried. The only effect of such knowledge coming to the counsel for the adverse side would be for the court to allow the witness to be called back and examined, first, as to the acts and declarations to be proved against him. The proposed proof could not be in any case adduced without this previous examination. The legitimate object of bringing forward this evidence would, in the courts below, be to discredit the testimony of a witness. The undeviating practice, without any exception, had been to call back the witness, and ask whether or no he had made the declarations or committed the acts about to be imputed to him. If the witness admitted the acts and speeches, no proof was necessary from the other side, and the witness had immediate opportunity for explaining his conduct; and thus the whole matter would come before the court in the most convenient manner for the due administration of justice. If the witness denied the acts and deeds imputed, the Counsel were not bound by his denial, but were at liberty to bring forward their contradictory proof in due time. If the witness should refuse an answer to the questions, and the court, on proper representation made, should deem it necessary to go into the inquiry, the Counsel for the defence would also have an opportunity of establishing their allegations by evidence. In a case wherein the knowledge of corrupt conduct in the cause, of a witness called in chief for the prosecution, should come to light late in the trial, it would, in the opinion of the Judges, be most important to the decision to allow examination as to that part of the case, but never without having previously called back the witness, and examined him upon the matter of the offered proof. Great injustice might be done unless previous intimation were secured for any witness whose testimony was to be affected by the evidence offered. So much as to evidence offered to affect the credit of a witness for the prosecution; but the same conclusions

must be drawn in the case of a witness for the defence. In all cases the great object of the rules observed in the Courts below was to prevent surprise, which might lead to injustice. The first question submitted to them referred not to words, but to acts. The second also referred to corrupt acts done by a witness. The course which he had laid down as the practice of the lower courts was the ordinary mode, and the usual course of ordinary cases. If the case to be adduced were extraordinary and unusual, the special nature of it must be stated in the opening. His Lordship referred to the distinction drawn in the questions between acts and declarations. He apprehended that the rule which applied to the one must affect the other. The lower Courts rejected nice distinctions, for fear of the confusion which might be induced by admitting them. For the reasons which they had given, they answered both questions in the negative.

The LORD-CHANCELLOR, after taking the opinion of the House whether the Counsel should be allowed to examine Sacchi now, stated that he was authorized by the House to ask the Counsel for the Queen whether they had any objection to call up Sacchi?

Mr. Brougham could only repeat the answer that he had given yesterday, that they did not wish Sacchi to be called up unless he were "now called," meaning at that moment yesterday.

The LORD-CHANCELLOR observed, that it only became him to say that he had not caught what fell from the Counsel yesterday on this subject so as to understand him distinctly.

LORD VISCOUNT SIDMOUTH said Mr. Maule immediately went to Sacchi's lodgings on his being called yesterday, and was bringing him down to the House when their Lordships adjourned. Several peers had met them on their way.

The LORD-CHANCELLOR again asked, if her Majesty's Counsel had any objection to the calling of Sacchi now?

Mr. Brougham could only repeat, that calling him yesterday was not the same as calling him to-day.

The LORD-CHANCELLOR.—Am I then to understand that you do not call for Sacchi?

Mr. Brougham was still of opinion that he had sufficient grounds for putting the question to the witness without calling up Sacchi.

Mr. Gurney, by the direction of the Lord-Chancellor, then read over the minutes of the examination of the last witness, Domingo Salvador.

The LORD-CHANCELLOR wished now to know whether it was their Lordships' pleasure that the last question should be put. His Lordship stated that he concurred in the opinion given by the Judges.



**EARL GREY** understood the opinion of the Learned Judges to turn on two points. He did not mean to consume their Lordships' time by re-stating arguments to which they had already listened. He should only observe that two grounds were urged for admitting the examination:—the one was Sacchi's connexion with the Milan Commission; the other the discrediting of his evidence. Now, whether it was competent for the Counsel for the defence to proceed with the examination on the last ground, he should not then argue, though his opinion was that enough appeared in Sacchi's evidence to authorize that course. But what he now rose to say was, that he thought such a degree of connexion between Sacchi and the Milan commission had been proved as was sufficient to let in the evidence proposed to be adduced by the Counsel for the defence, and on that account he now moved that the question be put.

The **EARL of LIVERPOOL** could not admit that the connexion of Sacchi with the Milan commission was sufficient to lay a foundation for the examination. He did not think that he stood at all upon the same footing as Rastelli or Vilmarcati. It did not appear to him that there was any proof of such general agency on the part of Sacchi as would lay a ground for the examination the Counsel proposed to institute.

**LORD ERSKINE** supported the motion. It was the duty of an assembly situated as their Lordships were to inquire to what extent subornation had been carried. He thought that the agency of Sacchi was sufficiently proved; but suppose Sacchi was not an agent, and no way connected with the Milan commission—suppose it was not possible to identify him with that commission—yet their Lordships sitting on a Bill of Pains and Penalties, should see how far the subornation of witnesses had been carried. The Counsel for her Majesty would be well justified in asking their Lordships to receive the evidence against Zangli, notwithstanding the decision of the Judges, which no one respected more than himself. But why this perpetual recurrence to the law? No law could have brought the Queen to this trial. The Learned and Noble Lord on the woolsack had stated, in the outset of these proceedings, that the offence with which her Majesty was charged was not treason, and that there was no law whatever to meet the case; and yet, when her Majesty comes to her defence, their Lordships say she shall be bound by the rules of law, and that in proceedings which are wide of the law. The Counsel for the Queen ought to be allowed to give legal evidence to prove any case of subornation of perjury in this cause, whether the parties so suborning were connected with the Milan commission or not: it was enough to know that persons had been su-

borned in this cause. If their Lordships had a suspicion only of persons being suborned to give false testimony, they ought to suffer the fullest inquiry into it. On these grounds he supported the motion of his Noble Friend, that the question be put.

The **EARL of DARNLEY** referred to the evidence given by Mademoiselle De Mont, to show that agency was brought home to Sacchi. He thought the fact sufficiently proved that Sacchi was either an agent or a runner of the Milan commission, and would vote for his Noble Friend's motion.

The **EARL of LIVERPOOL** said a few words in explanation.

**LORD MANNERS** was of opinion, that the same proofs ought to be demanded from the one side that were expected from the other. Both sides had a right to give evidence of a conspiracy, if one existed; but, supposing the counsel for the Bill were to say that a most important witness against the Queen had been removed, and they could produce persons capable of speaking to facts connected with the refusal, would this prove a conspiracy against her Majesty's friends, unless it could be shown that it had been done by some authorized agent of the party? Certainly a conspiracy could not be charged merely from such a fact being proved, unless it could be shown that an individual (suppose Mr. Flynn, or some other person known to be in the interest of the Queen) had been connected with the transaction, with the concurrence of his principal. It was necessary that this rule should be borne in mind in all cases, for it was equally necessary to the protection of innocence and the conviction of guilt; and their Lordships could never do justice, if they adhered to them on one side of the question, and abandoned them on the other. So important did he consider this, that he thought it would be well to refer the question as to the proof of agency, to the judges. If they acted inconsistently with the rules acted upon in the courts below, the calumnies sent forth against them in libellous publications would appear to be justified. By adhering impartially to the rules of the ordinary tribunals, they would best consult their own dignity and the true interests of the country.

The **MARQUIS of LANSDOWN** was always ready to defer to the judgment of the Learned persons to whom the questions had been referred on any subject of law, but in the present case their Lordships had not sought information on a point of law. The question was a mere question of fact, and while he sat in that House he never would consent to have his judgment directed in such a case by others. Their Lordships would not do their duty if they did not decide the question themselves. In his opinion the agency was proved; but, whatever might be the opinion of the House, they would de-



part from the line of their duty if they referred to any persons, even to the Learned Persons who sat on the woolsacks, a question of fact which they were bound to decide themselves. Any question of law the House might properly refer to the Learned Judges; but a question of agency was a question of fact. This was the question which his Noble Friend near him had proposed. It was a question whether Sacchi was or was not an agent in collecting evidence, or, as a Noble Earl opposite had properly expressed it, a subordinate agent under the Milan commission.

The LORD-CHANCELLOR said, before he should put the question, he wished their Lordships to be aware that they were to give their vote upon it with regard not only to the question of agency but also with regard to the other grounds to which it had reference. They would give their judgment in the affirmative or negative, not without regard to the other circumstances connected with it, for he agreed with the Noble Lord who had spoken last, that agency was a question of fact. The shape in which he should put the question was—"Is it your Lordships' pleasure that the proposed question be put to the witness? Whether evidence was obtained by subornation or not, he should not agree with his Noble and Learned Friend that this ought to be inquired into upon principles which were not considered consistent with doing justice, but upon principles which were so necessary here that they could not depart from them without doing injustice. The question was not whether subornation was practised, but, by what means subornation was practised.

Strangers were then ordered to withdraw, and the House divided;—

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Mr. Brougham was understood to say that all acts of subornation which he was prepared to prove were shut out by the decision of their Lordships upon the last question.—He did not therefore mean to state to their Lordships any topics to induce their Lordships to think that this body of evidence of subornation, or rather of corrupt acting, ought to be brought in. But one word he begged to be allowed to say for having pressed this evidence upon their Lordships. This was the defence of her Majesty, and it was most material to that defence to show, besides giving evidence to contradict the charges against her Majesty, how tainted the whole mass of evidence on the part of the prosecution was by subornation, perjury, and every species of bad practice that could taint evidence in any criminal court. The opinion of the Learned Judges showed clearly that they had viewed the questions

submitted to them on principles not applicable to the present case. The reasons assigned for their opinion showed that they viewed this case as entirely different from those to which they had reference. The Learned Judges had stated, as a reason why the question proposed could not be asked in the Courts below, that the witness to whom it referred might have departed the Court. Now, in this case, an order had been made that none of the witnesses should depart, and yet one witness had been withdrawn, in violation of that order. This he mentioned only as an illustration that many things might be applicable between A. and B. which were not applicable here. Having said so much with reference to the evidence which had been offered and refused, he had now only to say, that the case of mal-practices against her Majesty being closed, they now proceeded to another part of the case for the defence.

Counsel were ordered to withdraw.

The MARQUIS of LANSDOWN said, that in this stage of the proceeding he conceived it to be essential to justice and fairness that Mr. Powell, the agent for the prosecution should be called on to produce the correspondence between him and Colonel Browne, in September last, respecting the sending of Rastelli to Milan.—Their Lordships could not, consistently with the interests of justice—consistently with regard to their own dignity—consistently with regard to their own honour, abstain from calling for the evidence which he proposes.—The circumstances must be in their Lordships' recollection. There had been an order (or an understanding equivalent to an order) of the house that no witness should be withdrawn or removed out of the country during the trial. Yet a witness most material in the case, Rastelli, had been withdrawn by desire of the agent for the prosecution, and sent out of the country with a passport from the Foreign Office, to whom no order had been communicated to withhold such a passport. (*Hear, hear, hear.*) As to the motive of sending Rastelli out of the country, the agent had said that he had been induced to despatch him as a courier to quiet the minds of the relations of witnesses at Milan, and that that was the sole purpose of sending him. He held in his hand evidence given by Mr. Powell to show that the sole purpose of sending Rastelli out of the country was to quiet the minds of the relations of witnesses; that Rastelli was prevented from returning by illness; and that the only objection to the production of correspondence with Colonel Browne, in proof of these statements was, that it was confidential. (Here the Noble Marquis read extracts to the above effect from pages 820 and 821 of the printed evidence.) Having then ascertained from the agent, or at least having the agent's declaration upon oath,

what the motives were, he asked, whether it did not appear from the evidence which he had read, that the same facts might be collected from the best evidence on the subject, viz.—the letters, or extracts of letters written by Colonel Browne and Mr. Powell? Their Lordships were as competent to collect the facts from the letters as from the witness. From the letters they could collect what had induced Mr. Powell to send Rastelli out of the country in opposition to the order and intimation of the House. On the same ground on which the House had called the agent to the bar, they were entitled to get the letters. Their Lordships had placed themselves in the situation of prosecutors and judges—they had called up an imaginary personage to direct the storm—they had created the shadow that was considered prosecutor. Were there Lordships, then, to be precluded from calling for letters to show the motive for not complying with their order? It was not an imaginary agent that was talked of; what confidential relations, therefore, could exist between the substantial agent and the imaginary principal of their own creation, which precluded the production of the letter: (*Cries of Hear, hear.*) Was there one of their Lordships, who, if his agent acted contrary to the orders of the court, and during the trial, withdrew a witness essential to the discovery of truth, would not, not only have permitted, but insisted (*Hear, hear, hear*) that the agent should state every title of fact, and produce every circumstance relating to that withdrawing of evidence? But, besides that the House was not bound by the imaginary interests of the prosecutor, he would undertake to show that if Mr. Powell spoke truth, and he was unwilling to assume that he did not, then no inconvenience could arise, even to the imaginary interests alluded to, by the production of the letters. What had Mr. Powell said? That his sole motive was that Rastelli might carry communications to the relatives of witnesses at Milan. If that was the sole motive, if there were no other instructions in the letter to Colonel Browne; if Rastelli was only employed as courier, and if that was the sole motive, what possible injury could the production of that part of the letter do? If Rastelli's illness, and no other consideration, prevented his return, as said to have been expected, and if no different communication was made to Colonel Browne but that Rastelli was prevented by illness, what injury could the production of that part of Colonel Browne's letter do? He therefore thought that their Lordships were bound to lay aside the interests of this imaginary person: but if they should not lay them aside, still, if the agent spoke truth, their Lordships could obtain nothing that could violate confidence, or injure those imaginary interests. It was not for him to anticipate objections to his motion. He moved "that

Mr. Powell be called to the bar, and ordered to produce such parts of the correspondence between him and Colonel Browne, as related to the sending of Rastelli out of the country, and to the preventing of his return." If any objection should be made to the public production of this correspondence, and it should be preferred to refer it to a secret committee, he would make no objection to that course.

The EARL of LIVERPOOL readily admitted that this case was very different from a case between any individual prosecutor, or individual defendant, in which no court could call for the confidential correspondence of principal or agent; but he admitted that the House, by having ordered the Attorney-General to appear for the prosecution, held a mixed character in this case, and that the objection did not strictly apply. The House, however, having appointed agents, must have appointed them with all the reasonable privileges and all the confidence that belonged to agents. Their correspondence must become confidential, as much as that of the agents of an individual party, or of the illustrious defendant in this case. Every act of theirs became confidential, and was not afterwards to be called for. This was very different from public documents: there was here no despatch; the communication was not to be entered on any record, it might or might not become public; but there was nothing of the kind that evidently came before parliament. If, then, the House could not call for the correspondence of agents and principals, neither could they call for the production of correspondence between agents themselves. Agents were appointed subject to the conditions of agency. He conceived that this applied to a part as well as to the whole of a correspondence, and thought it might be absolutely impossible to give honestly and fairly a part without the whole, and without letting out other matters which their Lordships would admit to be improper. He knew not whether he had explained his meaning sufficiently; but the House must have appointed agents who conceived themselves the same as private agents. He did conceive that there was a most decided objection by the principle he stated to the production of this correspondence in part or the whole. In this case what motive was there to induce their Lordships to break in upon the great principle of confidence? He conceived that there was literally no mystery in this case. The agent had, most improperly, as was admitted, sent out of the country an important witness, who ought to have been retained; but in his conscience he believed that the agent expected the witness would return before he should be wanted. The agent had stated that he had done this without communication with the other agents—he meant with the law-officers

of the crown. There was no difference of opinion as to the propriety of the particular act, though there might be as to the motives from which it proceeded. It was far their Lordships to say how far they would call for farther explanation or further animadversion on this act; but the House, he trusted, would not for the first time break in upon a principle so sacred and so important as that which precluded the production of the confidential correspondence of agents, written in confidence, and in expectation that it would never be produced. If their Lordships should be of opinion that it ought to be produced at all, he certainly should prefer a Secret Committee.

LORD KING observed that the Noble Earl (Liverpool) had on a former occasion expressed his readiness, at the proper time, to inquire into the agency which had been employed against her Majesty; but it seemed that this was not the proper time to enter into that inquiry. (*Hear, hear.*) If he understood the state of the case, it was this—a conspiracy was charged to exist, and Rastelli was proved to have been one of the active agents of that conspiracy. After that, Rastelli had been removed from the country in the most improper manner; and under such circumstances, that, if the same thing had been done in a cause before a court of justice, that attorney who sent him away would never have been allowed to practise in any court again, and the cause in support of which such a step had been resorted to would have been at once dismissed by the court. (*Hear, hear.*) It was impossible to trace through all the ramifications of such a case, who were agents; but he thought it ought to be put to the sincerity of the Noble Earl (Liverpool) to bring this correspondence forward, in order to show whether that which had been asserted at the bar by the attorney was the real motive for sending Rastelli out of the country, and in order to furnish the means of detecting the alleged conspiracy. He must observe, that if there had been difficulty in knowing what the agents were, there had also been difficulty in discovering who was the prosecutor, though the Noble Earl opposite had at last admitted that he was the prosecutor. On this question it was impossible not to be struck with the reluctance which had been evinced by some of the Noble Earl's colleagues to express their sentiments. They had shown themselves backward to appear, and had never once stood up in the cause to support their leader (*hear, hear*); but still they must be held equally responsible as the Noble Earl. It was contended by ministers, or rather for them, that they had no interest in the success or the failure of this measure; and, if that were the case, he could only say that they had stronger nerves than any set of ministers that had been in office since the Cabal.—

(*Hear*)—The Noble Earl had said that there was nothing mysterious in this matter; but, for his own part, he thought the whole transaction bore the character of mystery. Whoever the prosecutors were, if they adopted the evidence, they must also adopt the agents by whom that evidence was procured. But it appeared that witnesses had been brought forward without the knowledge of the prosecutors, or at least without the knowledge of any of their avowed agents, for Barbara Kress had been procured, not by an English, but by a German agent. The Hanoverian government, he apprehended, were interested in the steps that might be taken to unravel this mystery. In short, it was clear that machinery had been at work which did not appear at their Lordships' bar, but for which the Noble Earl opposite was responsible. If the Noble Earl and his coadjutors were sincere when they professed to have only the ends of justice in view, let them not satisfy themselves—let them not expect to satisfy that House or the country—by professions only; but when a motion was made, the object of which was to arrive at a knowledge of the truth, let them testify their sincerity by acceding to that motion. (*Hear, hear.*)

LORD ELLENBOROUGH had formerly expressed his opinion on this subject, and he thought that nothing had since occurred to alter that opinion. It being admitted by the Noble Earl (Liverpool) that the prosecutor in this case was different from an ordinary prosecution, it followed necessarily that the agents also stood in a different situation from ordinary agents. It was impossible that an agent should exercise rights which his principal did not possess, or, possessing, might not be able to exercise. Now, what was the reason assigned for withholding this correspondence? Why, it was alleged that concealment might be necessary! God forbid that any concealment should be necessary here! (*Hear, hear, hear.*) He felt convinced that it was not desirable, and that it was not necessary. But the objection now made to the production of these papers, if it was well founded, should have been stated earlier. The same objection would have been made to the evidence of that person who had been examined at their bar respecting the removal of Rastelli: but that had not been done, nor had Mr. Powell made the slightest objection to answer at the bar the questions which were put to him in his character of agent. If, then, it was not improper to call for the production of these papers, it was not proper to examine that person on the same subject to which the papers referred; for these letters it should be borne in mind, were required for the very same object for which Mr. Powell had been examined. (*Hear, hear.*) An important witness had in this case been removed, and certain reasons had

been assigned to their Lordships for his abstraction. If these alleged reasons were the true ones, the papers in question would still be so far satisfactory, that they must convince their Lordships of Rastelli's having been sent away for the purpose which the attorney, Powell, had stated at their bar; but if, on the contrary, Col. Browne's statement on the subject should be found to be different from that of the attorney, all the evidence which their Lordships had yet heard would be drivelling when compared to such an important circumstance. (*Hear, hear, hear.*) In such a case, therefore, where he was convinced that there was no necessity for concealment, he must vote for the production of the papers. At the same time he felt the force of what had been observed by the Noble Earl (Liverpool) respecting the possibility of those parts of the letters which referred to the mission of Rastelli being mixed up with other matters; and therefore he thought the preferable course would be to make them entire, and have them referred to a secret committee.

The EARL of ROSSLYN apprehended that the privilege which an agent enjoyed of being protected against giving evidence which would lead him to betray the confidence of his principal, was not the privilege of the agent, but of the principal. If that were the case, and if the client waived his right, there could be no doubt that the attorney might be called to give evidence. In this case, either Ministers or the House were the client; and if the discovery of truth was the object in view, as both Ministers and the House proposed, then the only question was, whether their Lordships, in the investigation of a legislative measure, would exclude truth, and pass the Bill without availing themselves of the means of knowledge that were within their reach?

The EARL of LIVERPOOL said, that subject to the understanding that the papers were to be referred to a Secret Committee, he should not press his objection to the motion. (*Hear, hear.*)

The LORD-CHANCELLOR after what had taken place, did not mean to support the objection, as an objection, but the proceeding about to be adopted was so important, that he desired not to be included in the number of those who thought that there was no objection to it. In the first place, their Lordships must allow justice to be done to the witness at the bar; for, if Mr. Powell had not taken the objection to his being examined as a professional agent, he would have deserved never to have been employed as an agent again. No reflection, therefore, should be thrown on that conduct, for it was his duty to let the objection be overruled.—With regard to the step which their Lordships were about to take, he begged them only to consider what they were doing; for

if the gentlemen who stood at the bar for the bill were to be considered as acting for the house, he knew no reason why their Lordships might not call the Attorney-General to give evidence, (*Hear, hear,*) and make him produce all the papers about the counsel, the solicitors, and the witnesses. (*Hear, hear.*) The circumstance had been adverted to already, and he put it again to their Lordships that the subject into which they were now inquiring might be so mixed up with other matters, that they could call for the letters on that subject without inquiring into others. Again, their Lordships wanted to try the truth of Mr. Powell's evidence, and how were they doing it but by calling on him to produce from his own pocket instruments to convict himself of perjury? He desired it therefore to be understood that he supposed that there must be some particular grounds in this case which influenced their Lordships' decision, and which he was unable to perceive; for, in his judgment, the course they were about to pursue was contrary to all practice, and to every principle of reason.

Lord Redensdale and Lord Erskine said a few words, which were inaudible below the bar.

The MARQUIS of LANSDOWN begged leave to make one remark on what had been said by the Learned Lord on the woolsack. The Learned Lord, in the protection which he had thought it necessary to give to Mr. Powell, had stated that no insinuations should be made against the attorney for refusing to produce the letters that had passed between him and Col. Browne. In this opinion he (the Marquis of Lansdown) agreed; and in the statement he had made he had carefully abstained from any animadversion whatever on that part of Mr. Powell's conduct.—If, therefore, the Learned Lord alluded to him—

The LORD CHANCELLOR begged to interrupt the Noble Marquis, and to say that if he had meant to allude to the Noble Marquis he should have done it in terms that could not have been misunderstood. He must also say, that during all the time that he had had the honour of sitting in that house, he had known no Noble Lord who was so little liable to make such animadversions as the Noble Marquis. (*Hear, hear.*)

The MARQUIS of LANSDOWN briefly replied to the objections that had been urged against the motion. From the moment that Mr. Powell stated he had received those letters from Col. Browne, he stopped; the letters then became the best possible evidence, and their Lordships might have called on him to state, *vide voce*, what was said in them. As to the danger apprehended from such a precedent, he would relieve their minds from that apprehension at once; for it was distinctly laid down in the law-books, that the privilege in question was granted



for the protection of the principal, and not of the agent; and therefore, when the principal waved his right, the agent might be called as a witness. Having certainly no object in view but the attainment of truth, and as it appeared to some Noble Lords that the best way of getting at it would be referring the letters to a Secret Committee, he should alter his motion in deference to that opinion.

The EARL of LIVERPOOL thought that, if they were agreed on this subject, they might let the motion be the last business of the day.

LORD HOLLAND questioned whether the matter had not resolved into a case of privilege.

The MARQUIS of BUCKINGHAM thought the arguments made use of by the Learned Lord at the table were decisive against producing the letters of an agent. But if the object was to elicit truth, he would suggest that this object could not be answered by submitting extracts of correspondence to a secret committee. He would not say whether it was right to appoint a secret committee; but if it was right to appoint it, and submit confidential letters to its examination, thus breaking through all the rules of justice, he thought they should give the committee the power of going further into the subject than extracts of letters could enable them to go. He would suggest the propriety of referring the whole question respecting agency to the committee.

After some desultory conversation relative to wording of the motion, a pause of several minutes ensued, during which we observed the Earl of Liverpool and the Marquis of Lansdown writing at the table, and the Earl of Lauderdale conversing with the Attorney-General at the bar.

The EARL of LAUDERDALE, having returned to his place, expressed a wish to hear the words in which the motion was drawn up, because it would depend on that whether he could agree to it or not, (*Hear, hear.*)

The LORD-CHANCELLOR read the motion, which was as follows:—"That a Secret Committee be appointed to inquire into and examine the communications between John Allen Powell and Colonel Browne, so far as the same relate to the sending of Giuseppe Rastelli to Milan in September last, and the causes of his not returning."

The MARQUIS of LANDSDOWN observed, that, in deference to the opinion of other Noble Lords, he had withdrawn his own motion in the assurance of another being substituted for it. Their Lordships were aware that it was not the custom of the House to appoint a committee in the first

instance, but to have papers first laid before the House, and then referred to a committee.

The EARL of LAUDERDALE thought that, if the committee were appointed, Mr. Powell should select such parts of the letters as referred to the mission of Rastelli; but he could not approve of the motion in any shape. (*Hear.*) It was of greater extent than their Lordships were aware; it laid down the principle that an agent might be called as an evidence, and have his whole correspondence examined. He maintained that, if this motion were agreed to, there was an end of all confidence between agent and principal (*hear, hear.*) and he did not think that in future any agent could safely do what he thought necessary for the interests of his client, subject to the apprehension that, at a future period, the whole of his conduct and correspondence might be examined. (*Hear, hear.*) He thought that this motion would set a more dangerous example than any other motion he had ever heard made. If this was a public offence, was it fitting that a secret committee should judge it? It was an offence against the whole House, and therefore a secret committee could not be made the judges of it, unless a part were to decide on the privileges of the whole. If it was necessary for parliament to inquire into the subject, let it make the inquiry by means which would not break down all the precedents of Parliament: but to lay the confidential correspondence of an agent before a Secret Committee was what he could not agree to. (*Hear, hear.*)

The MARQUIS of LANDSDOWN said that the argument of his Noble Friend was all in favour of his original motion; but when his Noble Friend, or any other Noble Lord, alluded to this as a course unprecedented in parliamentary proceedings, he must state to him, in reply, that, so far from being unprecedented, not more than two years—scarcely more than one year—had elapsed since that very course had been laid down by the legislature as the most consonant to the practice of parliament. It had been laid down at the commencement of this proceeding by the Noble Earl opposite (Liverpool) in the House of Lords; and in the other House of Parliament, in the case of Mr. Wyndham Quin, the correspondence between Mr. Grady and Mr. Carew Smith had been ordered to be produced before the House, and referred to a Secret Committee. He thought the course proposed, of sending such papers before a Secret Committee, was by no means an unparliamentary one. He was of opinion, however, that the more regular course of becoming possessed of them would be to call for these papers, sealed up, and then refer them to a Secret Committee.—At the same time, if it was thought more convenient to proceed by the appointment of a Secret Committee (a difference which he



was not disposed to consider very material), he apprehended the proceeding would be to call Mr. Powell before them, on an understanding that he (Mr. Powell) should exhibit the letters, doubling down those parts of them that were not connected immediately with the inquiry, for the purpose of satisfying the Committee that such parts referred to the mission of Rastelli. He imagined that what the House delegated to the Secret Committee would be to inquire into the matter of fact arising out of the papers, reserving to the House to act as it thought proper on the report of the Secret Committee. It was indifferent to him what particular course was pursued on this occasion; but, be that what it might, he should feel it his duty, if the House could not agree on the mode, in any event to take the sense of the House upon the main point—that the papers should be got at. There was a most extraordinary and unpleasant mystery which hung over this man's departure—a mystery which ought to be instantly dispelled, and which could not be removed but by the production of such parts of this correspondence as related to the departure of Rastelli.

The EARL of LIVERPOOL was by no means disposed to offer any opposition to the suggestions just thrown out, conceiving at the same time, that nothing ought to be referred to the secret committee but the correspondence between Mr. Powell and Colonel Browne as to the causes which had induced the sending Rastelli out of the country, and the reasons of his not having returned. (*Hear.*) He did, therefore imagine, that that must and ought to be arranged in such a manner that no other part of the correspondence relative to any other subject should be brought into question, or under inspection. This was his understanding of the subject; and, perhaps, by the way in which he had stated it he had more clearly expressed himself than by any set form of words. He should have no objection, therefore, to the main principle of the Noble Lord's suggestion. He should not himself wish to be a member of that secret committee certainly, but he should wish for its appointment, and that its object should be that Mr. Powell should attend with those letters, or copies of them, so that the parts in question might be properly verified by comparison with the originals.

The EARL of LAUDERDALE explained. He contended that, if they adopted the proposed course, they would derogate more from the consistency and dignity of the practice of the House of Peers than any thing which their Lordships had done upon any former occasion. The Noble Earl who spoke last appeared to concur upon this principle, that the parts of the letters only were to be produced to the secret committee. But he, (Lord Lauderdale) contended, that the words of the motion, applied generally to all the corre-

spondence; and he maintained that this precedent, for the violation of a confidential correspondence between principal and agent, was one of the most dangerous nature that could be established.

The EARL of MORTON followed on the same side. Were this really a question of precedent only, he should not think much of it; but they had already called this witness to the bar, they had sworn him, and they had interrogated him as to the contents of certain papers. No man in his senses, he thought, could require, without directly impeaching the character of Mr. Powell, that he should, after this, be subjected to the proposed proceeding.

The EARL of LIMERICK thought that there were great objections to both motions before the House. He should strenuously oppose either the secret committee or the former proposition of the Noble Marquis (Lansdown): and, in so doing, he appealed to the House, which he thought would do him the justice to believe that he acted only as a disinterested person, unconnected with either party. The course suggested would be a precedent fraught with every possible danger which could result from the violation of the relative confidence between principal and agent; and one which would affect every individual in the kingdom more or less.—On these grounds he should oppose both motions.

The MARQ. of BUCKINGHAM thought that it would be sufficient for the purposes of the Committee if they were furnished with the necessary extracts only, and recommended that a power should be reserved to Mr. Powell to give explanations if called for.

The LORD-CHANCELLOR confessed that it appeared to him, from the words which were now used in the motion he had to put, that it was presumed the committee would see the necessity of examining all the correspondence, in order to ascertain how much referred to the point to be inquired into. He might move an amendment to correct the terms of the motion, if he were acting in any other situation than that in which he stood; but the House must see it was impossible. If any Noble Lord chose to move such an amendment, it was of course open to him. Noble Lords appeared to have grounded the opinion of the necessity of Mr. Powell's examination before a Secret Committee—or at any rate, to have defended such a course—upon what they called the contempt of that Gentleman. They talked of the contempt of that Gentleman. They talked of the contempt of Mr. Powell, but this correspondence was between him and Colonel Browne. What right had they then to ask Colonel Browne? Had he been guilty of any contempt of their House; or was there any man in his senses who would believe that after such a proceeding as it

was proposed to enter into, if, in the course of this, it should be necessary for Mr. Powell to write Colonel Browne a letter, who would believe that the latter would answer him?

LORD REDESDALE argued against the proposition. Were they, after examining Mr. Powell on oath, and hearing him at their bar to try him afterwards? If it was their intention to try him upon collateral matter, and to put him as a witness at their bar, then they were trying, in fact, if he had spoken the truth on the former occasion. The Noble Lord proceeded to object to the production of any letters of Colonel Browne, and contended that, if it had been any witness but Rastelli whose absence was in question, those letters would never have been called for. He should most strenuously contend against either proposition; but the secret committee was the very worst mode of proceeding that could be adopted. He thought the very worst mode of proceeding that could be adopted. He thought that Mr. Powell ought only to be examined as to his object of sending Rastelli out of the country.

EARL GREY said that he was perfectly ready to concur either with the motion which was now in the hands of the Noble and Learned Lord on the woolsack, or in any other motion which should be thought proper for the same purpose. It had been said that, by entertaining either proposition, he was countenancing an act of real injustice: he trusted that it was unnecessary for him to say that he did not go upon any such motive. So far from thinking that the effect of this inquiry would be to produce gross injustice, in his opinion no substantial justice could be done without it. Their Lordships, upon the 21st of August, made an order that the witnesses summoned in this cause should attend *de die in diem*. The Noble Earl opposite, at the head of his Majesty's Government, had given in his place a most solemn pledge, that so far as depended upon him that order should be most strictly adhered to. And what followed? When their Lordships had come to a case requiring the immediate attendance of a witness at their bar, they found that, in contempt of this strict order, and in direct contradiction to, and violation of, that solemn pledge, so gravely given by the Noble Earl that witness had been removed. (*Hear, hear, hear.*) The consequence of this removal, and the effect of that violation, was an admission from the Noble and Learned Lord that an injury had been done to the Queen's case, which could not be atoned for, and was not likely to be sufficiently repelled. Now, he asked if this was not a case which demanded that that House, —that their Lordships, if they meant to do justice impartially; if they meant to preserve their character with the public on the

highest tribunal for the administration of justice in this country—should sift and investigate it to the bottom. This sort of reasoning had been already put to their Lordships, and Mr. Powell had, in consequence, been called to their bar. He then stated to their Lordships certain reasons which had induced him to do that which government had pledged themselves not to do. This explanation (without meaning any thing at this moment with respect to Mr. Powell, or the character of his evidence), he must be allowed to say, had not satisfied his (Lord Grey's) mind. (*Hear, hear.*) Under all the circumstances of the examination he should not do his duty if he did not state that he thought it most necessary. When Mr. Powell had referred to the correspondence of Col. Browne, as containing the motives of his (Mr. Powell's) extraordinary disobedience to the orders of the House, it became absolutely necessary that that correspondence should be produced and proved. The question then related merely to the manner of producing that correspondence; and undoubtedly he was inclined to think that the original motion of his Noble Friend, (the Marquis of Landsdown), was best calculated to attain that object. His Noble Friend, however, gave way, in compliance with the suggestions of the Noble Earl opposite, in order to unite all opinions upon that subject, and to avoid that opposition which arose in some parts of the House upon the proposition being first started by the Noble Marquis. In point of form, he (Earl Grey) believed it was true, as had been stated by a Noble Lord on the cross-bench, that it was not usual, in cases of privilege, to refer any matters connected with such offences to the consideration of a Secret Committee; at least, such was not the practice of the House. But he must beg leave to put a Noble Lord right (the Earl of Landerdale), when he said that their Lordships would be doing great injustice by adopting either motion; and that, by either, they were called upon to pronounce on the credit due to Mr. Powell. They were making no such reference to any Committee. All that a Committee was required for, if it should take place, was an exhibition of the correspondence, and that it should report to the House, not any opinion as to the efficacy of Mr. Powell's evidence, but as to the statements made in that correspondence—a correspondence which had it been asserted would divulge (as it would do without any public injury, or at least any injury to the client at the bar), the motives of Rastelli's mission. Whether precedents for such a course of proceeding as this were or were not to be found, to him (Earl Grey) it at least appeared that in a case of contempt of court, or, in more parliamentary language, of breach of privilege, it was certainly to be supported. If it should appear that there were circumstances of a confidential nature

connected with that correspondence, the exposure of which to the public view might be prejudicial either to the public interest or to the individuals concerned, under such circumstances without any departure from the principle of the original motion, he thought it might become a prudent course to refer that part of the letters to the discretion of the Secret Committee. But this had been ground of opposition to the original motion. In order to obviate that objection, he should not himself object to revert to what was the original course proposed by his Noble Friend; and to amend the motion now in the hands of the Noble and Learned Lord at the table in this way—"for the production by Mr. Powell of such parts of his correspondence with Col. Browne as may relate to the mission of Rastelli to Milan." He meant to follow this up by a second motion (which would be, perhaps, the more regular and unobjectionable mode of proceeding,) to refer the copies or abstracts so produced to the Secret Committee, to report upon such parts as they might deem fit to submit to the house. He thought that this would be the better and more desirable course on the whole; but that they should examine and inquire seemed to him to be indispensable.—That examination and inquiry could only be satisfactory by referring, in some manner or other, to some authority in that house, those parts of the original papers which might then be safely produced, in order to ascertain distinctly, the grounds upon which Rastelli went out of the country. This he conceived to be a necessary form of proceeding, and without it their Lordships must see that nothing could be, in effect, more nugatory, if they were to refer the matter to the witness at the bar, and leave it in his power to make such explanations as he pleased. Perhaps he might not produce the originals, moreover, but copies of such parts as he chose to select, or what he might call copies. It would be, indeed, nugatory and absurd. In saying this, he would observe he was not throwing any doubt upon the accuracy of Mr. Powell's statement; that remained to be confirmed, and confirmed, he trusted, it would be; but he also trusted that their Lordships would not make the result of their appointment a mere nonentity, as it would be unless it led in some degree to the production of the originals before the House, so that the explanation which was called for might be certainly and decisively known. He (Earl Grey) was sorry to find that any objection had been made to the proposed inquiry. He was in hopes that it would have passed without further obstacle, after the acquiescence of the Noble Earl opposite. As he wished the question might be put in the most explicit manner, he should propose, as an amendment, that after the word "that" in the original motion, all the following words should be omitted, and these

substituted in their stead.—(that,) "Mr. Powell be directed to produce such parts of his correspondence with Colonel Browne as may relate to the motives of his sending Rastelli to Milan."

The EARL of LIVERPOOL only wished to ask, if he had understood the Noble Earl (Grey) rightly? As he did understand what had fallen from the Noble Earl, he should certainly have no objection to the motion. If he (Lord Grey) meant that there were to be brought to the bar of that House, by Mr. Powell, such parts of the correspondence, or copies of it,—(cries of no, no.)—he had meant to quote the Noble Earl's words—such extracts, then, as related to the mission of Rastelli, he (the Earl of Liverpool) could have no objection to the proposal. Neither could he object to that Noble Lord's doing what he (Lord Liverpool) considered he would be fully entitled to do, when he (Lord Grey) should call Powell—viz., to examine those extracts by collating them with the originals, and to verify them. But he should most decidedly object to laying those letters before either the House or the secret committee, because such letters would most likely relate to other matters besides Rastelli's affair. To that proposal, therefore, he was decidedly adverse. He took the Noble Earl's object to be this—that, in the first instance, Mr. Powell should be required to produce copies of such parts of the correspondence as related to Rastelli only; and then, that those copies be referred to a secret committee; and that such committee should examine Mr. Powell to ascertain whether he could make such statements as might so far satisfy them as to induce them to verify those extracts of copies.

EARL GREY, in explanation, professed that his only object was to conduct this inquiry in such a manner as to obviate, as far as possible, the objections to be made by any Noble Lord. He had no objection to confine that production of letters to such parts of the correspondence as related to the mission of Rastelli: but he was going to say that, in the case, his ulterior motion would be for the appointment of a Secret Committee, with power to examine Mr. Powell, and to compare the copies of extracts with the original letters in such a manner as to be enabled to verify them.

LORD REDESDALE signified in a few words his dissent from the last proposition of the Noble Earl.

EARL GREY explained. He would shape the latter part of his amendment thus:—"Such parts as relate to the cause of his having sent out of the country Giuseppe Rastelli."

The EARL of LIMERICK repeated the objections he had before urged against the proposed course of the proceeding. He most strongly objected to the principle here, or in

any case, of calling on the agent. In all cases too, he was most averse to the appointment of secret committees, unless they were particularly and indispensably required. His objections remained unaltered; and if he should find no Noble Lord to entertain his own feeling on the subject, he would divide singly. (*A laugh.*)

EARL MANVERS apologized for the obstruction of his own sentiments upon the attention of the House; but hoped, nevertheless, that they would indulge him for a few minutes. (*Hear, hear.*) He really thought the character of the House, in this proceeding, was most materially compromised by the absence of a witness; and he should not consider the reasons which had been alleged for it as satisfactory. (*Hear.*) Under all the circumstances of the case, indeed, he should think himself guilty of the most gross dereliction from his public duty if he did not give his warm support to any motion, having for its object the explanation of that, which, at present, he must consider as a stigma, that their character and their interests of justice required to be wiped off. (*Hear.*)

LORD SOMERS could not be satisfied with a silent vote upon this occasion. He should be much inclined to agree with the Noble Lords who objected to the original motion, if it was to be made a means, as he was sorry to perceive upon more than one occasion it had been, of sapping and doing away with those usages, those laws, and those established customs, which were, in his opinion perfectly essential to our glorious constitution. No act could be done, more calculated to affect every man in these kingdoms, than that the confidence of agency should be thus destroyed. How could any man, hereafter, acting confidentially and honestly as an agent, be expected to perform his duties with that candour and fairness which might be required of him, if he were to be liable to have his confidential letters thus looked into? It did appear to him that their Lordships, without meaning, were about to do one of the greatest possible injuries to the interests of the community. As for what the Noble Earl (Manvers) from the gallery had said, that appeared to apply rather to the conduct of the witness than the consideration of the proceeding; and at this moment he did not conceive that they were engaged upon such an inquiry as the witness's conduct.

EARL MANVERS begged to say three words in explanation. The Noble Lord who had just spoken had certainly misunderstood him in the little he had said. That had no reference whatever to the witness, who was not, at the moment, in his mind at all, excepting only as regarded the fact of his absence, which he considered as most mysterious and singular. (*Hear.*) He had no hesitation in

saying that it was absolutely necessary for Mr. Powell's character that it should be cleared up (*hear, hear*); and, though it might be liable to some objections, he should support the proposed course of proceeding.

The EARL of HAREWOOD perfectly agreed with those who thought that there was a very great difficulty in this question. On the one hand he should be the last man in the world to authorize the production of any confidential communication between a principal and his agent; because he looked upon it that line of that description, taken by that House, would be absolutely ruinous to all confidence, in all proceedings of every sort and kind, between man and man. But, under the particular circumstances of this case, notwithstanding the evidence of Mr. Powell's words and declarations, which he was disposed to take as true, there was something on the face of it which required the House to investigate the whole of the correspondence upon the particular point to which their attention was directed. There was something in the absence of Rastelli which appeared to demand much inquiry, and which could not be accounted for but by a most satisfactory explanation. Of course there was to be in the secret committee a strict understanding that nobody in that committee should look into the original correspondence, except for the verification of the extracted copies of the parts alluded to: to look beyond this would be to exceed the duty of the committee, and to commit a breach of honour with the parties. He had no doubt, however, that if the committee were appointed, it would do its duty in a just and proper manner, and make such a report as the exigency of the case required. (*Hear hear.*)

EARL GREY said, that he considered the motion as he had just put it, and as it was agreed to by the Noble Earl opposite, (Liverpool,) as sufficient for the purpose which they all had in mind. As to its being drawn into precedent for the Courts below establishing a right to call for a disclosure of the confidential correspondence of professional agents, this he thought could never be, unless the same occurrences in all respects took place, and imperatively called for a disclosure. Precedent or no precedent, he would say this—that if the alternative should be in this case, where such a matter arose as amounted to an obstruction of justice, either to violate the ordinary principles of justice by calling for this disclosure, or to go on with the case, exposed to all the imputations of not having probed this particular obstruction to the bottom, he should, for one, the moment he was placed in that alternative, not lose an instant in proposing that the proceeding upon this bill do terminate instantaneously. (*Hear, hear.*) The mo-



ment that the House was obliged to declare that an obstruction had occurred into which they could not inquire, that moment they ought to terminate their proceedings: for to continue them were then impossible, without an entire alienation of all public confidence. (*Hear, hear.*) What he proposed, therefore, was, in his motion, as first amended, that Mr. Powell be called to the bar, to produce, in a sealed paper, all such extracts from his correspondence with Col. Browne, as related to the mission of Rastelli to Milan. This motion he meant to follow up with another—namely, that these extracts so delivered be referred to a secret committee, with power to examine Mr. Powell upon such extracts, and to verify them by a comparison with the original documents, and that their reference to the latter be strictly limited to such verification. These were the motions which he had to put, and to which he anticipated the concurrence of the House. (*Hear.*)

The EARL of DONOUGHMORE thought that the House were so placed as to be imperatively called upon to make further inquiry into this transaction. This committee was not called for with any view of contradicting Mr. Powell's evidence, but for the purpose of corroborating it by a reference to the original letters of Colonel Browne respecting Rastelli, which Mr. Powell admitted he had in his possession. There was no breach of confidence in this; for the house were the original employers of Mr. Powell; he was their confidential agent. It was they, therefore, not Mr. Powell, that were responsible for whatever disclosure might arise out of the matter. It was impossible for the House to do that justice which the case required, without opening their doors as wide as possible for the disclosure of truth.

The MARQUIS of LANSDOWN said, that he so entirely concurred in the motives as amended by his Noble Friend, that he had no objection whatever to withdraw his own motion to make room for their adoption. It was, he thought, indispensable for the character of the House, that this inquiry into Rastelli's journey should go on. The committee would, of course, not enter further into the examination of the original letters than to verify the extracts: to that their examination would, of course, be restricted, and the House might rely with confidence upon the propriety of its committee, and that they would not exceed the limits assigned to them.

The EARL of LAUDERDALE said, that if they decided upon going into this inquiry at all, it was, of course, necessary they should go into it effectively: but his difficulty was how they could confine their examination of the originals to a verification of the extracted parts merely relating to Rastelli's business. He could not see how the whole of the correspondence could be open-

ed without going further than he thought the House ought to go consistently with the principles of justice.

EARL GREY repeated, that he meant simply to confine the committee to a verification of the extracts, by comparing them with the originals; and not to go through the whole correspondence in any way beyond what was actually necessary for the purpose of verification.

The EARL of CARNARVON said, that the proceedings of the committee ought to be opened as wide as truth required. What was it they were now about to do? It was, in fact little or nothing, compared with what the case called for. They were, by this motion merely calling upon Mr. Powell to make out his own case. As the committee now stood restricted, Mr. Powell would be the committee, and not the Noble Lords whom the House might appoint. Why should not the committee have power to ascertain whether the extracts put in were, or were not, garbled? He did not mean to insinuate that Mr. Powell would garble them? But the committee ought to have power to make their duties fully effective, and not dependent upon the inclination of any individual, to obviate all possible misconception. If they did not give more latitude to the committee, they would not satisfy the ends of justice, nor afford the Queen that protection which she had a right to demand. It had been said, "will you produce the confidential papers of this prosecution?" To this he would answer, "had they not already produced them in this case for the prosecution? Aye, and gone beyond them, he had no doubt." (*Hear, hear.*) He also thought her Majesty had a right to complain that this debate had been carried on in the absence of her counsel, who might have it in their power to submit that the House were restricting the just scope of defence to which she was entitled. In justice to the Queen they ought to call in her counsel, and ask them if they were satisfied with the proposed proceeding, which, however, he thought, as it now stood, was nugatory, and could not afford satisfaction to any party.

The MARQUIS of LANSDOWN, with reference to what had fallen from his Noble Friend who spoke last, observed, that what the house was discussing had nothing whatever to do with counsel. (*Hear, hear.*) It was merely an inquiry within the house respecting the violation of one of its own orders. (*Hear.*) The intended proceeding was not either a negative one, but rather of an affirmative character; for it was to shew whether the evidence given at their bar was correct, according to the documents referred to in that evidence. It was, in fact, to pursue the ends of justice by getting at the truth, the whole truth, and nothing but the



truth, as connected with a particular part of this transaction. (*Hear*).

The EARL of CARNARVON said, in explanation, that what he complained of was, Mr. Powell's having to make the extracts instead of the committee.

EARL GREY hoped, in explanation, to be allowed to say, that the documentary evidence was called for to support what Mr. Powell had said at their Lordships' bar. The only power which the committee required in furtherance of this object was to have reference to the originals for the purpose of verification. If in their inquiry they should see any necessity of calling for fresh powers, they must return to the house to call for that augmentation.

The LORD CHANCELLOR then proceeded to put the question upon the Marquis of Lansdown's motion, and the house gave its consent that that motion be withdrawn.

The question was then put upon Earl Grey's first motion, "That Mr. Powell do attend their Lordships' bar, with extracts, sealed up, from such parts of his correspondence with Colonel Browne as related to Rastelli's mission to Milan;" and

The LORD CHANCELLOR said he thought that the contents had it; but a division being called for, the house divided, when the numbers were—

|                |       |     |
|----------------|-------|-----|
| For the motion | - - - | 122 |
| Against it     | - - - | 79  |

|                          |   |    |
|--------------------------|---|----|
| Majority in favour of it | - | 43 |
|--------------------------|---|----|

On the re-admission of strangers below the bar we found the Earl of Carnarvon contending that Mr. Powell's examination respecting the extracts should be public; but the noise was so great that it was impossible to hear the particular observations of the Noble Earl.

The following Noblemen were then named as the Committee:

|                                         |                        |
|-----------------------------------------|------------------------|
| The Lord President of the Council (Har- | Lord Ellenborough      |
| rowby)                                  | The Earl of Lauderdale |
| Earl Grey                               | Lord Erskine           |
| The Earl of Rosslyn                     | Lord Ross              |
| Lord Mansfield                          | Lord Amherst, and the  |
| Lord Arden                              | Marquis of Lansdown.   |

On the motion that Counsel be called in, it was suggested by (we believe) Lord Rosslyn that they should be informed of the appointment of the Committee: but this was negatived. Counsel were then called in.

Mr. Brougham then addressed their Lordships; but from the low tone in which he spoke at first, and the noise which then prevailed below the bar, we could not catch the early part of his observations. We understood him to recall the attention of their Lordships to the circumstance of their having

had occasion to call for Rastelli, a few days back, and that when so called for he was not to be found, because he had been sent out of the country. It was unnecessary for him then to go into the particulars of the transaction, as it must be fresh in their Lordships' minds. In consequence of that circumstance, an agent in support of the Bill was examined on Saturday, and their Lordships had directed that they (the counsel for the Queen) should be present, and be allowed to put questions to that agent on the subject then before the House. They had examined him, for it was impossible otherwise to come at any accurate knowledge of the transaction. What he now had to pray of their Lordships was, that they would assist them (her Majesty's Counsel) in a farther investigation of that subject. Their Lordships would investigate the matter in that way which might to them appear most proper; but any investigation would be nugatory unless the whole of the correspondence were before them, to which, if it contained nothing wrong, if there was nothing in it which should not have been, there could be no reasonable objection. It was the wish at present of himself and his Learned Friends that they should be allowed to put certain questions to Mr. Powell on this subject, and for that purpose he hoped their Lordships would now suffer him to be recalled to the bar. He trusted their Lordships would have the goodness to give him an answer.

The LORD-CHANCELLOR (after a short pause) replied, that he was not instructed by the House to give any answer to this application.

The EARL of CARNARVON was of opinion that the request of counsel should be complied with, and that Mr. Powell should be recalled. He saw no use of their Lordships' decision to investigate this transaction if counsel were to be thus limited. He agreed that there should be known and fixed limits to the examination, but those limits ought not to restrict the putting of important questions to which the present part of the case gave rise. It was admitted that by the conduct of one of the agents, which, to give it the most gentle term, was at least culpable, a witness was abstracted, whose re-examination was said to be of importance to her Majesty's defence. Under those circumstances he thought that a larger limit should be allowed to her Majesty's counsel in the examination of those parties whom they could come at. It was also, he observed, important that the counsel for the Queen should have an opportunity of re-examining Mr. Powell respecting this correspondence: with this view he moved that Mr. Powell be now called in.

The LORD-CHANCELLOR said, that he looked upon the proposed measure as a most dangerous proceeding.

The **EARL of LIVERPOOL** would not then go into the question whether it might or might not be proper to re-examine Mr. Powell at another time, but he thought that the present was not the proper period for that purpose. The committee was appointed on a matter of privilege.

The **MARQUIS of LANSDOWN** said that when Mr. Powell was before the House on a former occasion, counsel were called in, and informed that they might be present as parties to the examination. They were then allowed to put questions; and he maintained that, if there was any questions which arose from circumstances that came to their knowledge since, they ought to be allowed to put them.

The **EARL of LIVERPOOL** replied, that he considered it useless to put any questions to Mr. Powell until after the report of the committee.

**LORD HOLLAND** conceived that the examination ought to be allowed. The House had now appointed a select committee to inquire into part of this correspondence. This was, in fact, a secret committee; its proceedings would not be conducted publicly, and their Lordships knew that no member could disclose what passed in it either to their Lordships or the public: but of what advantage was this to her Majesty's defence, if her counsel could not know what was done? Their Lordships had established this select committee for the purpose of putting questions to the party touching this correspondence. Her Majesty's counsel did not consider this satisfactory, as they wished to put some questions themselves. Now, if their Lordships were in earnest in the inquiries they proposed to make, what reply could they give to this request? Would they say, "We will have this inquiry for ourselves, and you (counsel) shall have nothing to do with it?" Here then was an inquiry instituted for the purpose of eliciting information on a most important feature of this case, and yet the counsel for the defence were to be precluded from any further examination touching it. Was ever any proceeding so strange, absurd, and anomalous? He was one of those who held that the whole of the correspondence, and every part of this mysterious affair, should be produced and laid before the House, for he fully agreed with his Noble Friend, that a great obstruction to justice did exist; and, unless their Lordships went the whole length of inquiring into it, it would be absurd to attempt it by only advancing a little. The very appointment of the committee admitted that the inquiry hitherto was not complete. Their Lordships had allowed this: if so, they would stultify themselves by not allowing the counsel to proceed in the course they had requested. They thus did one or the other of two things—they had either established an inquiry which they ought not to

have done, or they rendered it useless by stopping the counsel in their advance to truth. He therefore contended, that, having gone so far, they were bound in consistency to go farther, and allow the re-examination of Mr. Powell. He had heard it said that the inquiry respected a matter of privilege; but he would be glad to learn that those who were so anxious to preserve their lordships' privileges had given a little more attention to the privileges of the country before they introduced this Bill of Pains and Penalties. He should be glad that any of those noble Lords who seemed to think that proceeding by Bills of Pains and Penalties was according to the constitution of the country, would point out the rules by which they should be conducted. If in this case the rules they followed would be generally adopted by the Courts below, then it might proceed; but if it could not be conducted without a departure from the practice of our courts, and he contended it could not, then he maintained that it ought not to be proceeded with in violation of all our rules of evidence. If their Lordships could abide by the ordinary and general rules of evidence in this tiresome, disgusting, and contemptible case—for such in his conscience he considered it to be—if by such evidence they could legally arrive at the truth, let them; but if not, let them give it up altogether. If their Lordships departed from this standard, they would throw a lasting stigma on their proceedings. Having arrived at this stage of the business, it might be inconvenient to grant the latitude which was demanded; but who was the cause of that inconvenience? Their Lordships should consider that the parties now applying had not produced it. If they now determined not to give this opportunity of eliciting the truth, they ought to throw out the proceeding altogether; and he firmly believed that there was not a man in the country who would not be heartily glad of it.

**LORD ELLENBOROUGH** said that the application, as it appeared to him, might be considered in two points of view—as it regarded the privileges of their Lordships, and as it might affect the defence of her Majesty. With respect to the first point, he conceived, counsel had nothing to do; but if the absence of Rastelli occasioned an obstruction to her Majesty's defence, then he thought that the appointment of the committee ought not to preclude her Majesty's counsel from putting further questions to Mr. Powell, if any thing had come to their knowledge since the former examinations which he might explain. At the same time he would not accede to the motion without first hearing a statement of the grounds of its necessity.

**EARL of DARNLEY** looked upon the obstruction which had taken place as a great

injustice towards her Majesty ; and in that point of view he considered that the counsel ought to be allowed to re-examine Mr. Powell. He agreed with the Noble Lord who preceded him, that with the case of a breach of privilege alone the counsel had nothing to do ; but when an obstruction to the defence of their illustrious client arose out of it, he thought they ought to be allowed a very considerable latitude in their re-examination. He did not think, therefore, that this application could be resisted with that view to substantial justice which a Noble Lord opposite (Liverpool) had enforced on a former occasion. If their Lordships should refuse this application, he would exercise his privilege as a Peer, and put questions to Mr. Powell on this subject when he came to the bar with the papers. He fully concurred with his Noble Friend (Lord Holland) in his observations on the whole of this unfortunate case ; and he would repeat his words that it was a disgusting and contemptible proceeding. In this question he was more and more confirmed every day. They were now three days without having done any thing. (*A laugh*) He would now repeat it, that the last three days had been spent in doing nothing. He did not impute this as blame to any party in particular ; it arose out of the nature of the case, and he was now firmly convinced that their difficulties on the subject would increase daily, and that they would never arrive at any satisfactory conclusion. (*Heard, heard.*) When he came daily to that House, and saw the paraphernalia by which they were surrounded, he doubted whether he was not waking from some feverish dream:

*Ac velut in somnis oculos ubi languida  
presit.*

*Nocte quies, nequicquam avidos extendere  
cursus*

*Velle videmur, et in mediis conatibus egri  
Succidimus ; non lingua valet, non corpore  
notæ*

*Sufficiunt vires, nec vox nec verba sequuntur.*

Their Lordships would excuse him from pressing the quotation further. It was his firm belief that this proceeding would never come to any satisfactory conclusion : and he was sorry (as we understood his Lordship) that the majority in which he was a while ago (a circumstance which seldom occurred to him) was not one for getting rid of the proceeding altogether.

The question was then put, and negatived, without a division.

Mr. Brougham said that he would now go on with his witnesses. He then called

**ALEXANDER OLIVIERI** who was examined by Mr. TYNDALL.

Were you ever in the service of the Viceroy of Italy ?—I was.

What rank did you hold in the army ?—I was colonel of cavalry.

Did you serve in the Russian campaign ?—I did.

Were you a prisoner there ?—I was.

When did you return from Russia ?—On the 18th of Feb. 1815.

Were you afterwards in the French service ? I was.

What rank did you hold in that army ?—Colonel.

When were you first introduced to her Royal Highness the Princess of Wales ?—In the month of November, 1816, while she was at Como.

Who introduced you ? The Baron Cavalletti.

Do you recollect afterwards seeing her Royal Highness at Rome ? I do.

When was that ? In 1817, when she came to Rome, and remained there two months.

Do you recollect the month ? I think it was in the beginning of June.

Did her Royal Highness at that time invite you to dinner ? Often ; many times she did me the honour to invite me to her table.

Did she honour you with an invitation to the Villa at Pesaro ? She invited me in November.

Did you pay her a visit at that time ?—Yes, on the 11th of November.

Was her Royal Highness residing at the Villa Capriani ? Yes.

Was any proposition made to you to become one of her Royal Highness's suite ?—There was.

In what situation were you to join her suite ? As one attached to her Court, *cavaliere*. [The Interpreter explained that this word meant no particular situation or employment, but one attached to a suite.]

Were you to receive any salary or pay ?—Yes.

How long did you serve her Royal Highness in that capacity ? I continued so till the 4th of November in the following year.

That would be in 1818, I think ? Yes.

Did you, then, receive any other appointment under her Royal Highness ? I had the honour of being named her chamberlain.

Were you sole chamberlain, or joined with any other person in that situation ? There were no others (we think he said) in that situation but Bartolomeo Bergami and myself.

How long did you continue joint chamberlain with Bergami ? Till last February.

Do you now receive any salary or pension from her Royal Highness ? I do not.

Have you since ? Never.

Are you a married man ? I am.

Have you any family ? I have a wife and daughter.

Where do your wife and daughter live ?—At Rome.

Were they ever, at any time, at Pesaro with you? Never.

Are you living with them now, when at Rome? I do.

Do you recollect her Royal Highness at Rome in the beginning of 1817? She at that time set out from Rome.

For what place? She set out for Polognia; but to my knowledge she went to Sinigaglia.

Did you sup with her Royal Highness on the night of her departure? I had that honour.

At what hour of the day or night did her Royal Highness set off on her journey for Polognia? It was about midnight.

Did you hand her to her carriage on that occasion? I had the honour.

What sort of a carriage was it that she then travelled in? It was a small carriage—*carrozzina*, or what answers in English to the word 'chariot.'

Besides her Royal Highness, who else got into the carriage? The Countess Oldi, the Chamberlain Bergami, and the little child Victorine.

Do you recollect whether the Count Vassali was in attendance upon that journey? I distinctly recollect that he was.

Was the carriage, in fact, an English carriage? It was; at least, so I considered it.

Was Mr. Hownam also a party on that journey? Mr. Hownam travelled in her Royal Highness's suite.

Did you see the Count Vassali and Mr. Hownam any where? I saw them together in the same carriage: I saw, and bowed to them.

Did you at any time yourself travel in the carriage of which you have spoken, or that used by her Royal Highness on this journey? I have travelled in it, but it was subsequently to the journey in question.

Have you a full knowledge of the state and description of the carriage? Yes, I know it well.

Do you know who rode as courier from Rome on that occasion? I saw Carlo Forti set out as courier.

During the time that you acted as joint chamberlain with Bergami, what were his manners and deportment towards her Royal Highness? As far as my observation went, his conduct was always that of a respectful servant.

Did you ever observe any thing indecorous, or had you reason to conceive that any impropriety existed? Never.

When her Royal Highness was at Rome, was she visited by many persons? She was visited by persons of the first nobility.

Can you name any of them? There was the Cardinal Consalvi, the Cardinal Puff,

the Cardinal Vidoni, the Cardinal Caciopoli, many ladies of distinction.

Do you recollect the Baroness Andriani? She served as one of the *demoiselles d'honneur* to her Royal Highness at Rome.

Did you ever see her Royal Highness in company with his Holiness the Pope? I never did.

Have you ever seen her with the Duchess Doverell? I have not the honour of knowing her.

Do you recollect seeing her Royal Highness in company with the Princess of Gabrielli? I do.

And with the Duchess Raggiani? Certainly.

Did they visit her Royal Highness at that time? They did.

Was Bergami present in the capacity of chamberlain on this occasion? He was.

Can you state what kind of persons formed the society of her Royal Highness at Pesaro? The first of the nobility.

Do you remember the Governor of Pesaro attending? I do.

Did the Archbishop of Urbino visit her Royal Highness? Not at Pesaro.

At any other place? Yes, at Urbino.

Was Bergami received at the houses of those individuals when her Royal Highness was absent? I have seen him often.

Have you ever seen her Royal Highness when walking take the arm of any gentleman in her suite? I have sometimes had the honour myself.

What was the conduct or demeanour of her Royal Highness towards the gentlemen of her suite in general? It was affable, and at the same time noble.

Who usually attended her at the commencement of the morning? All who belonged to her court.

How did she generally pass her mornings? After breakfast she took an airing in her carriage, and, on her return, sometimes sat in her library, and sometimes wrote.

Who generally attended her on these occasions? If you ask as to the period of her stay in Rome, I cannot tell; but I can explain myself as to the time that I was in her service.

Who usually attended her on these occasions, whilst you were in her Royal Highness's service? I repeat, all her court.

During her stay at Pesaro, what society did she entertain? She lived much at home, and amongst her own attendants.

Did she see any company besides her suite at that time? Yes, sometimes persons came.

Do you know whether the carriage which her Royal Highness used at Pesaro had an apron to it? I do not know.

Did you ever know her to make use of a carriage with an apron to it? I cannot say;



I never saw such a carriage made use of by her Royal Highness.

**Cross-Examined by the ATTORNEY-GENERAL.**

Of what country are you a native? I was born at Tivoli, but have passed the greater part of my life at Rome.

Where had you been living previous to your introduction to her Royal Highness? I had returned to France from Russia.

How long had you left France at the time of your introduction? I left France about the end of the year 1815; I reached Milan about the beginning of the year 1816; I stayed there some time, and afterwards proceeded to Rome.

Were you in the army at the time you left France? No; I did not belong to it after the Army of the Loire was disbanded.

How long did you afterwards remain at Milan? I remained from the beginning of the year 1816 until the month of November of the same year.

Where was your family during that period?—My family always remained at Rome.

What was the cause, then, of your staying so long at Milan?—I remained in consequence of my having had the command of a regiment, and of regimental accounts which I had to settle.

Was the settlement of your accounts the only reason for your continuing to stay so long at Milan?—It was the only cause.

What regiment in the Army of the Loire did you command?—I was on the *etat-major* of General Regnier.

Did you belong to a French regiment?—No; I belonged to the *etat-major* of General Regnier.

How long did you continue on his staff?—Till the army was disbanded.

But how long before?—I was on the staff of General Regnier when the army arrived on the banks of the Loire, and I continued in that station till the army was disbanded.

How long previous to this period had you been in the staff of General Regnier?—I was so situated at the battle of Waterloo, and after the retreat of the French army from Paris.

How long had you been in the French service before the battle of Waterloo?—I entered the service of France a short time before that battle, and soon after my release from imprisonment in Russia.

How long had you returned from Russia at the period of your entering the French service?—I returned in February, 1815.

Am I to understand that from that time up to the period of the battle of Waterloo you were not in the French service?—No, not precisely.

Had you been in the service of the King of France before you entered that of Buonaparte?—I had not.

Were you not in the French army in February, 1815?—No.

In what month did you enter into the French service again?

Mr. Brougham said that he had not understood the witness to state that he was in the French army before.

The question was accordingly again repeated with the word "again." The witness answered, I entered into the French service in the month of May.

Of what regiment was it you went to Milan to settle the accounts?—The dragons of Ercoli.

How long before that time had you served in that regiment before you went to Milan?—I cannot answer that question; the regiment was raised in Italy.

Of what regiment did you go to Milan to settle the accounts?—When I went, in 1814, the army of Italy had been disbanded; when I came from Russia the army of Italy had been disbanded, and I went to Italy on the 18th of February, and then passed to France.

Did you not say that when you went to Milan, in 1816, you remained there to settle some regimental accounts?—Yes, because the Austrian government had there an express commission for it.

Was it in November, 1816, that you were personally introduced to the Princess at Como?—Yes.

How long have you known Bergami?—I knew him then for the first time.

You afterwards saw the Princess at Rome: was that the first time you had seen her after you had seen her at Como?—It was the first time.

Where was it that the proposition was made to join the Princess's suite?—It was at Pesaro, when I went on the 11th November, 1817.

Who made the proposition to you?—The Princess caused it to be told me by her chamberlain, Bergami.

Then Bergami made the proposition to you?—By order of the Princess.

Was that what Bergami said to you at the time?—Yes.

In what situation were you in the Princess's suite when you first joined her?—In consequence of that application?—Does that question apply to my own family, or that of the Princess.

In what situation were you placed by the Princess when you first joined her suite?—I had no fixed employment then.

How long was it before you became chamberlain?—It was on the 4th November of the following year, 1818.

Then did you continue with the Princess from November, 1817, when the proposition was made to you to join her suite, till the following month of November, without any particular employment?—Yes.



How long did you continue her chamberlain? Till last February.

Where did you quit the Princess's service? At Rome.

How long have you been in England? About 2 months, or 2 months and a half.

Did you come alone or in company? I came in company with Count Schiavini.

Do you live in her Majesty's family now? Her Majesty has done me the honour to allow me to live in her house, but I do not form a part of her family.

Have you been in the house of her Majesty ever since your arrival in England with Schiavini? On the day following my arrival her Majesty sent for me, and had the kindness to let me lodge in her house.

Did Schiavini come with you from Rome? He came with me from Pesaro—I went to Pesaro, and he came with me here.

Had you remained at Rome from the month of February, when you quitted the Princess's service, till you went to Pesaro, to come here? Yes, in the country near Rome, on an estate of mine.

Who paid the expenses of your journey to England? I believe the government, because I was indemnified by the advocate of the Princess.

Who was the advocate? I cannot say; but Count Schiavini who received the money, has given me my share, but I know no money has come from there.

Mr. Brougham required that the Interpreter should explain the meaning of the word *avvocato*, which he had translated "advocate."

The Interpreter said that *avvocato* was a generic term, and meant every person who had something to do with the law—attorney, counsel, advocate, and sometimes even a judge (*laughter*.)

Who told you to come to England? Nobody has spoken to me on the subject, but I myself thought it my duty to write to the Queen, when I heard that the process was made, as I saw by the newspaper of *Lugano*.

When did you see Bergami last? At Rome, when I left the service of her Majesty.

Have you seen him since? No.

You said that Schiavini paid your expenses here; have you received any thing besides your expenses? Nothing.

How much was it you received from Schiavini? 85*l.* sterling.

How long and how often were you at Como in November, 1816? I was at Como once.

You have been asked about the Princess setting out from Rome to Sinigaglia, and you said that Lieutenant Hownam and Vassalli went on the same occasion: were they in the same carriage? I have not said I was on that journey.

Did Mr. Hownam and Vassalli go in the same carriage on that journey? They were in two separate carriages.

Who went besides? Those I have mentioned, and the two chamberlains, William Austin, and Louis Bergami, I believe, but I remember no others.

Are those all you recollect? Those I remember, but I remember no more.

Was Schiavini one? He set out on the following day.

How many carriages accompanied the Princess? I think, two besides her own: two or three, two certainly.

Do you know the courier Sacchi? I do.

Did you see Sacchi set out on that occasion? No.

Will you swear that Sacchi was not a courier on that occasion? I did not see him; I swear not to have seen him; I saw Carlo Forti set out, and I did not see the other couriers set out.

At what time did Carlo Forti set out? Together with the carriages of the Princess.

Was that from Villa Brandi? From Villa Brandi.

How often had you seen Sacchi at Villa Brandi? Almost every day I had the honour to go to dine with the Princess.

Was Sacchi at that time one of the couriers of the Princess? I do not know if he was a courier, because I saw him in the dress of a hussar.

Do you remember afterwards, at Pesaro, Sacchi in the carriage with the Princess? When I went to Pesaro, Sacchi had left the service of the Princess.

You mentioned a lady of the name of the Baroness Anghiana as one of the ladies of honour of the Princess at Rome: how long did she continue one of the ladies of honour? During the whole time the Princess stayed at Rome.

Do you mean at Rome or at Villa Brandi? At Villa Brandi, which is within the city of Rome.

Did she live in the house? She came every morning, and remained there the whole of the day; I have always seen her there.

Can you mention the name of any English ladies who visited the Princess at Rome? On the days I went to dinner there I do not remember to have seen any; I have seen some of the Roman nobility, but I do not recollect to have seen strangers.

At Pesaro did you see any English ladies? No, I have not.

Did Louis Bergami, at Pesaro, dine at the table of the Princess? Sometimes he did.

Did he not always dine there when he was at Pesaro? I have not seen him always.

Do you know Bergami's sister Faustina? I do.

Did she dine at the Princess's table? Never.

Was the mother of Bergami ever at Pe-

saro? She was there sometimes for a little time.

Did she dine with the Princess? Scarcely ever, because she was almost always ill.

But did she never dine with the Princess? Yes, sometimes.

Do you know the wife of Bergami? No.

You never saw her at Pesaro? No.

*Re-examined by MR. TYNDALL.*

You were asked whether you had ever seen Bergami's wife at Pesaro; have you ever seen your own there? Never; she never came to Pesaro.

You have been asked whether any English ladies visited the Princess at Rome, do you know whether there were any English ladies of consequence at that time in Rome? I do not know.

What part of the year are you speaking of? The months of June and July.

Is not that the season when the Maladia prevails at Rome? Yes.

When you were at Pesaro were there any English ladies of consequence there? None.

*Examined by the PEERS.*

By LORD ELLENBOROUGH. At what hour did Count Schiavini leave Rome on the day after the Princess? He set out on the following evening with the luggage—all the effects which the Princess had left behind.

In what situation was Faustina in the suite of the Princess? I think she was charged with the care of the linen, but it is a thing that did not belong to me, and I do not remember. It was not in my department, and I did not go about inquiring into those things.

By EARL GREY.—Did you know Sacchi when you entered into the service of the Princess? I knew him at Rome.

Did you know him when he was in the army of Italy? Never.

By the EARL of LAUDERDALE—Where did you see the Lugano newspaper which informed you of the proceedings against the Princess? At Rome.

The witness was ordered to withdraw, and it being now 4 o'clock the Lord-Chancellor adjourned the House.

### PROTEST AGAINST THE SECRET COMMITTEE.

#### DISSENTIENT.

Because this resolution appears to be inconsistent with the principles upon which all courts refuse to compel the production of any part of the confidential correspondence of professional persons, employed confidentially as such, in the matters to which the correspondence relates.

No. 50.

Because no particular circumstances in this case appear to be sufficient to authorize our not adhering to the rules of proceeding founded on those principles.

Because, therefore, this resolution, if acted upon as a precedent, may dangerously affect the administration of justice.

|                   |                         |
|-------------------|-------------------------|
| Eldon, C.         | Abingdon                |
| Queensberry       | Northwick               |
| Rous              | Harris                  |
| Montagu           | Walsingham              |
| Somers            | Napier                  |
| Farnham           | Clinton                 |
| Northampton       | Carrington              |
| Limerick          | Loftus                  |
| Saltesford        | Belmore                 |
| Douglas and Loch- | Mayo                    |
| leven             | Gray                    |
| Buckingham        | Forbes                  |
| Kingston          | Stuart of Castle Stuart |
| Orford            | Coventry                |
| Macclesfield      | William                 |
| Kenyon            | Cornwallis              |
| Digby             | Aylesbury               |
| Shaftesbury       | Chatham                 |
| Stamford and War- | Powis                   |
| ington            | Cathcart                |
| Lonsdale          | Strange                 |
| Huntingdon        | Exmouth                 |
| Mansfield         | Richmond                |
| Redesdale         | Suffield                |
| Meldrum           | Brook and Warwick       |
| Pomfret           | Winchester.             |
| Falmouth          |                         |

### House of Lords,

SATURDAY, OCT. 21, 1820.

At 10 o'clock the Lord-Chancellor took his seat, and prayers were read. The Clerk then proceeded to call over the House, which occupied more time than usual in consequence of many of the peers coming down to the bar, and below it, to look at two New-Zealand chiefs who had been introduced to see the House. These men were remarkable for the manner in which their faces were tattooed, scarred, and coloured.

About half-past ten the Counsel were called in, and business commenced; but from the crowded state of the bar, and the confusion which prevailed, much of the conversation in the early part of the proceedings, was very imperfectly heard.

The EARL of LAUDERDALE called to their Lordships' recollection that part of Lieut. Hownam's evidence which related to the order of St. Caroline, proposed that he should be now called upon to produce the diploma.

Mr. Brougham said he believed Lieutenant Hownam was not then in attendance, but that he expected him soon.

M 4

The MARQUIS of LANSDOWN inquired whether Mr. Powell was in attendance to deliver in extracts from the correspondence between him and Col. Browne.

The Attorney-General said that Mr. Powell was in attendance, and that he would send for him.

Mr. Brougham, in looking over the papers he had at the bar, had found Lieut. Hownam's diploma; and as Mr. Powell was not present, he would take that opportunity of delivering this anxiously desired paper.—(A laugh.)

After some remarks from the Earl of Lauderdale, Lord Redesdale, and Lord Holland, which were not heard, the Lord-Chancellor informed Mr. Brougham, that in point of form it was necessary that the diploma should be delivered in by Lieut. Hownam himself.

EARL GROSVENOR observed, that he understood that any Peer might call up a witness to the bar to examine him, and intimated that he would perhaps exercise that right with respect to Salvadori. This right he considered a consequence of the order of the House that the witnesses should be in attendance *de die in diem*. This order had been supposed to be confined to the witnesses who had been already examined, but in his opinion it ought to be regarded as applicable to all of them.

Mr. Powell now appeared at the bar with a sealed parcel in his hand.

The LORD-CHANCELLOR asked Mr. Powell if he had brought the extracts of his correspondence with Col. Browne, pursuant to the order of the House?

Mr. Powell said he had the extracts in his hand. He begged to observe, that, when he formerly objected to deliver them, his objection was not founded on any personal considerations, but on a sense of what he owed to the particular character in which he stood with respect to these proceedings.

The MARQUIS of LANSDOWN suggested that Mr. Powell should be desired to state what the papers were which he had brought.

The EARL of LAUDERDALE could not concur in this suggestion. Mr. Powell had received an order of the House to present certain sealed extracts: he had now presented these extracts in the manner he was ordered by the House. Surely, therefore, it was for the secret committee, to which the papers were ordered to be referred, to see if Mr. Powell had complied with their Lordships' order. He could not see why the House should at first proceed to put any questions whatever to Mr. Powell.

The EARL of CARNARVON said, that in his opinion the suggestion was a proper one for examining Mr. Powell now as to these papers. He certainly ought to be asked whether the extracts he had brought were

the whole of the extracts in Col. Browne's correspondence which related to Rastelli's mission, and whether the original letters were also in the House for the purpose of ascertaining the verification of the extracts by comparison.

The EARL of LAUDERDALE said, that his objection was not that proper inquiries should not be made from Mr. Powell of the nature alluded to, and for any purpose of verification that might be thought necessary; but that inquiry, he thought, should be left to the secret committee, who had the power of examining Mr. Powell, and not taken up by the House, who had at present nothing to do with it.

The EARL of LIVERPOOL said, he could not see upon what grounds the House could now put questions to Mr. Powell. They had ordered that gentleman to produce certain papers, which they had also ordered should be referred to a secret committee. The papers being now in the House, the first step to be taken was to send them to the committee. The order upon Mr. Powell had been executed so far as the House at present knew; and certainly they could not put questions to Mr. Powell in this stage of the proceeding.

The EARL of DARNLEY was of opinion that Mr. Powell should be asked to describe the papers, and to say whether the whole of the extracts were in the sealed parcel.

LORD REDESDALE said a few words against asking the question.

EARL GREY thought that at present the plain course for their Lordships was to send the papers to the secret committee, there to have the verification made, and Mr. Powell's examination commenced. It would be quite time enough for the House to take the matter up when the committee had made their report.

The MARQUIS of LANSDOWN did not propose the question for his own convenience, but for that of the secret committee. If, however, their Lordships preferred another course, he had no objection.

Mr. Powell then delivered in the extracts, and was sworn to give evidence before the committee.

**TOMASO LAGO-MAGGIORE**, sworn, examined by MR. WILDE.

Where do you live? Near Como.

What is your occupation? I am a fisherman.

Were you at any time employed as a boatman by her Royal Highness the Princess of Wales? Yes.

Do you know a person of the name of Guggiari? I do.

What was he? Another fisherman, as I am.

Were you ever in a boat with her Royal Highness and Bergami? I have been.

Did you ever see either of these persons kiss the other? (Shaking his head) No.

In what part of the boat did her Royal Highness sit? On the left.

Did you sit in such a situation as to see her Royal Highness? I did.

Was the boat lighted? Had the boat lights in it? It had.

Did you sit in such a situation that if they had kissed you must have seen it? I did.

Are you quite sure that you never saw any kissing?

The Solicitor-General objected to the question.

It was then put thus—Have you any doubt of it.

The Solicitor-General said this question was liable to the same objection as the former.

Mr. Wilde having already examined the witness to the fact, he only wished to obtain still more certainty. The only objection he could conceive that might be made to the question was, that it was a leading question; but as he was only following up the previous examination, he had a right to ask it.

The Solicitor-General maintained that his objection had not been at all answered by what had just been stated. In examining his own witness, if that witness had stated any thing in contradiction to what had been stated by another witness on the same side, such a question might be put; but in the present case he insisted the learned counsel had no right to put a leading question.

The LORD CHANCELLOR observed, that as the witness had already stated the fact, he must be held to have sworn positively. There was therefore no ground for asking whether he had any doubt.

#### *Cross-examined by the SOLICITOR-GENERAL.*

How many times have you conducted her Royal Highness the Princess of Wales from the theatre at Como to her villa? I cannot tell how many times, but I can positively say ten or twelve times, or even more.

Will you swear that you have not conducted her Royal Highness from the theatre to her villa as many as twenty times? I may have done it still more, but I cannot positively say how many times it may have been.

Now, at the times when you conducted her Royal Highness from the theatre to the Villa d'Este, how many boatmen were there generally in the boat? There were generally ten.

Was it after the performance at Como was over that you were in the habit of bringing her Royal Highness back in your boat?—Yes, I brought her back to the villa.

Was it then night? It was the evening. [The interpreter added, "he means night."]

Was that part of the boat in which her Royal Highness sat separated from that in which the boatmen worked? The boat was all joined, but there was a division in the middle, which was the carriage part.

Did her Royal Highness sit with Bergami on that side of the division in the boat where the boatmen worked, or on the other? The boatmen were in the forepart of the boat and some sat behind.

So that her Royal Highness and Bergami, if I understand you, had some boatmen on one side, and some on the other: was it so? Yes.

Was there any covering over that part of the boat in which her Royal Highness and Bergami sat? There was a covering over top of the carriage, and there were glasses in front and behind.

Were there any curtains? There was one in front, but there was no curtain behind.

Were there any glasses in front? Yes, as well as behind.

Who sat in the carriage besides her Royal Highness and Bergami? For the most part there were some women; also sometimes the podesta or magistrate, the physician, and the prefect.

In going from Como to the Villa d'Este, were her Royal Highness and Bergami sometimes alone? Never, the boat was always full of gentlemen.

Will you swear that the boat was always full of gentlemen when her Royal Highness was going home from the theatre at Como to the Villa d'Este.

While the interpreter was translating the question, the witness began to reply.

The Solicitor-General directed the interpreter to desire the witness to hear the question before he began to answer it.

The interpreter communicated this to the witness, and then explained to him the question. The answer was, Yes.

Where did the prefect live? He sat sometimes on the one side and sometimes on the other side of the carriage.

You are asked where did he live? At Como.

Where did the podesta live? At Como.

Do you mean to say that those persons accompanied her Royal Highness home from Como to the Villa d'Este every night? I cannot say that they all accompanied her Royal Highness from Como every night, for sometimes they stopped at their own homes; but for the most part there were many gentlemen in the boat.

Whom did you come over to this country with? We are twelve or more. I do not know how many of us there are here.

Did you see Count Vassali before you came here? I have seen him at Milan.

Did he examine you at Milan as to the evidence you were to give here? No.

Who did examine you there, if you were examined at all? The advocate Podazzi (as the witness called him.)

By the Interpreter.—Is it Podazzi or Codazzi?—They told me was called Podazzi.

Did he write down what you said? He did.

Did you swear to the truth of what you said? I did.

Did Codazzi make you swear to the truth of what you said? He did.

How many times did you swear to the truth of what you said? I believe twice.

Did you then tell a different story each of those times? No.

How came it then, having been examined once, and sworn by Codazzi, that he made you swear again? I have said about twice, but I cannot say precisely how often.

Will you swear that you were not sworn three times by Codazzi? I cannot say that.

When you say "I cannot say that," do you mean to swear that Codazzi did not make you take the oath three times? I cannot precisely say to the times.

Although you can't say precisely, will you swear that you were sworn more than twice? I cannot swear it; because I am in doubt.

Who was present when you were thus sworn: An English gentleman.

Do you know his name? I don't know it.

Was it Henry? I don't know.

Was that English gentleman there each time you were sworn? He was.

How much were you paid the first time you were sworn?—

Mr. Denman objected to the question, as it assumed that the witness had received something.

The Solicitor General.—Well, were you paid any thing, and, if so, how much the first time you were sworn? No.

Do you mean to swear that you were paid nothing? I have received 20 Italian livres.

Do you mean to swear that you received that the first time you were sworn? It was on my setting out for my departure.

Was it on your departure to come to this country, or from Como to Milan? From Milan to come here.

Will you swear that you did not receive any money before leaving Milan to come here? Nothing.

What have you received since? Nothing.

Will you swear that the only sum of money you have received for coming here was the twenty livres?—

The Interpreter said the witness repeated that he had received three half francs, which amounted to 20 Italian livres. Some explanation ensued between the interpreter and the witness about the value of a half franc, after which the former stated the meaning of the witness to be, that he

received three half francs, each franc consisting of 26 Italian livres, making of course, 39 livres.

Will you swear that you have not received, nor been promised, any thing more for coming to give evidence here? If they give it to me, I will take it; but if they don't, I come voluntarily.

That is not an answer to my question. Do you expect any thing? I cannot tell the idea of the people that brought me here, and cannot say any thing about it.

Are you a married man, and have you children? I have a wife and children.

Is any thing paid to them? Yes.

How much? One livre to my wife, and half a livre to my children.

Do you mean a livre a day? Yes.

How many children have you? Four.

Do you mean that half a livre a day is given to each child? Yes.

Do you pay all your own expenses here, or are they paid for you? That I don't know; they have fixed on two Napoleons a day for the expenses.

Do you mean to say there are two Napoleons a day paid you for expenses? I do not know, because we have received only the francs I have mentioned.

Has any promise been made to allow you two Napoleons a day for your expenses?—That has not been fixed on.

What do you mean, then, by saying that you have fixed upon two Napoleons? They mentioned two Napoleons a day, but I don't know how it will turn out. (*A laugh.*)

Who do you mean by they? Codazzi.

I ask you whether, when you were at Codazzi's at any time when business was going on, you met a man with one eye, a young man? I have not.

Who was it that took down, in writing, your deposition? was it Codazzi or his secretary? Codazzi.

Was it himself or his secretary? Codazzi.

Then was there no clerk there at any time? None.

Where do you live now? We are a little out of town.

How many of you are there together? About twenty or twenty-one; I don't know exactly.

How far is it from London or the city? Five or six miles; I cannot say exactly.

How far from where the Queen is? I have not been to see the house of her Majesty; I cannot tell.

Do you all live together in the same house—the twenty one? All.

Do you all dine at the same table? We do.

And breakfast together? Yes.

And talk together? All together.

How often have you seen Vassali or Schiavini there since you arrived? Once.

Have you seen Guggiari there? Santini? Santini Guggiari? I have.



Does he live in the same house? He lives together with us.

How long have you all been there? About a fortnight.

Was it not at the request of Santini Guggiari that you came over here? No.

*Re-examined by Mr. WILDE.*

Is there a guard where you live? Yes, there is a key to each door. (*A laugh.*) There is no sentinel.

Can you go in and out when you please? In the house there is a key that locks the door, but we go to bed at night. (*A laugh.*)

Was it for your expenses that the two Napoleons were to be allowed? For Victuals.

For how many? For each person two Napoleons are fixed.

Do you know the difference between a franc and a Napoleon? I cannot state precisely the amount, but four silver Napoleons make one gold Napoleon.

How much is a silver Napoleon? Six livres and a half of Milan.

When you say that two Napoleons a day are to be allowed for your expenses, what Napoleons do you mean? silver or gold? Silver.

Did the Government of your country require an allowance to be made to your family before it would grant passports?—

The Solicitor-General objected to the question as irregular.

Do you know for what reason the allowance came to be made to your family? The Government has ordered it so.

Did part of the crew sit on one side of the boat, and part on the other? Yes.

Did Giuseppe Guggiari sit at the same end of the boat as you did? He did: he was in the same part, but behind me.

On which side of the boat did Bergami usually sit? For the most part on the right hand.

Where did her Royal Highness sit? On the left hand, for the most part.

You have been asked how often you were sworn. Explain what you mean by being sworn? When they took down my depositions on the conduct of her Royal Highness.

What do you mean by *juramento*? Upon the depositions I gave Codazzi, the oath took place.

Describe all you did when you were examined and took the oath? I deposed to those things that they did ask me, and I said what I had seen, and upon this the oath was.

Describe all you did the first time you saw Codazzi?—

Mr. Brougham complained that the Interpreter had asked the witness *what* he did; whereas the object of the question was to make him tell *all* he did, in order that their Lordships might understand what the witness means by being sworn.

The question was then correctly put to the witness, but he did not seem capable of understanding it. He asked if it referred to the deposition.

How was the deposition taken? The deposition was this which I have said that I have been examined on.

What did you do when you had taken the oath, as you call it? The deposition of those services I have done.

Do you not understand the question. Was there any book there? No.

Was there any cross there? No, I believe not.

Did you kiss any book, or any cross? No, nothing.

*Cross-examined by the SOLICITOR-GENERAL.*

When you took the oath, did you hold up your three fingers in this way?—

Mr. Denman objected to his Learned Friend's assuming that the witness had taken an oath.

The Solicitor-General said he only assumed what had been said by the witness himself.

Mr. Denman thought that point had been sufficiently explained by the re-examination.

The Solicitor-General contended that he had a right to put the question.

Mr. Wilde thought that, after it had appeared that the witness neither kissed a book nor a cross, it could not be assumed that he had been sworn.

Mr. Brougham thought the regular way of putting the question would be, "Did you hold up your three fingers, thus?" omitting the words "when you took the oath."

The EARL of LIVERPOOL suggested the following form of question:—"Did you do so and so, when you did what you call taking the oath?"

The LORD-CHANCELLOR thought that if the witness said he had taken an oath, it was competent for counsel to inquire in what manner he did it.

The Solicitor-General.—The witness on cross-examination had said that he took an oath, and his Learned Friends on the other side, in order to do away the effect of that answer on their Lordships' minds, had asked him questions as to the forms of oaths in this country.

The LORD-CHANCELLOR thought the best way would be to ask the witness what he did when he took the oath.

Mr. Brougham said that he and his Learned Friends had put that very question some five or six times; but the witness, whose intellect was not very acute, always went into an account of what he said about what the Princess of Wales said, and thus they did not seem to make any progress at all.

The Solicitor-General complained that his Learned Friends were by no means fair: first they put their questions to this witness

generally, and then, not being answered to their satisfaction, they put particular ones—such as “Was there a book there? Did you kiss the cross?” and so on. Surely, then, he (the Solicitor-General) was entitled to ask the witness whether or no he held up his fingers when he swore, which he understood to be the form of the country.

The LORD CHANCELLOR thought there was no occasion for any difficulty on this point. He understood that Mr. Brougham did not hold up his hand against this witness's having held up his three fingers. (*A laugh.*)

The Solicitor-General.—Did you hold up your three fingers?—

(The Interpreter was proceeding to render the witness's answer, when)

Mr. Brougham complained that the Marquis was commencing his translation of the witness's answer, omitting the very material commencement of it, which was in these words—“No, Sir.”

The Interpreter explained that he was about to proceed with the remainder of the answer when he was interrupted by Mr. Brougham.

Mr. Brougham contended that “No, Signor,” had been altogether omitted by the Marquis, though they were the very first two words of the witness's reply.

The LORD CHANCELLOR said the proper way would be, for the interpreter to proceed strictly and regularly with his translation of the answer, and for counsel not to interrupt him in the course of it.

The Solicitor-General submitted that no doubt the interpreter intended to give the words in question; and when he was interrupted, he (the interpreter) was proceeding to say something else.

The EARL of MORTON concurred in the statement of the Learned Counsel (Mr. Brougham). He had distinctly heard the witness reply, in Italian, “No, Sir;” and those words had certainly been omitted by the interpreter.

The question was then repeated.

Ans.—He told me to swear to tell the truth; but I made no sign.

When he told you to swear to tell the truth, what did you say?—

Mr. Brougham asked if his Learned Friend was to be allowed to go on with a new cross-examination upon he did not know what!—He did not himself care whether the witness held his hand, or his finger, or three fingers up; and thought that this was very needlessly to occupy the time of the house.

The Solicitor-General humbly submitted that this question he was entitled to put.

The LORD CHANCELLOR said the house would decide, having heard the opposite counsel's objections.

Mr. Brougham had no objection to the questions being put now,

The EARL of LAUDERDALE observed that, as this was the case, the question should be put now.

The Solicitor-General remarked, that he believed the practice to be this:—Where there was a termination of an examination in chief, and a cross-examination, the party examining, and being desirous to put another question, put it through the house.

EARL GREY had no objection to the question being put now; it would be, at any rate, the most regular course.

(Some further desultory remarks took place upon this subject between the Solicitor General and Mr. Denman, and the following question was put:)

When he told you to swear to tell the truth what did you say? What did I say? what did I do? It was the truth, and I said it; it was the pure truth.

By EARL GREY.—Did you ever take any oath before any tribunal in Milan? before any tribunal at any time? No.

By LORD ELLENBOROUGH.—Did the rowers in this boat sit or stand? They stood.

Were their faces towards the head of the boat? Yes, they were.

How many rowers were there on that side of the “carriage” which you have described—that is, towards the head of the boat? Six.

How many on the other side? Four.

Now, what oar did you pull, counting from the head of the boat? The nearest to the carriage.

What oar did you pull, counting from the back? The first or nearest beyond the carriage, and nearest to the Princess.

What oar did Guggiari pull? Two oars beyond me.

Then do I understand that Guggiari pulled the 2d oar from the witness? Yes.

And did the witness pull the 4th? The 4th oar towards the carriage.

The EARL of LAUDERDALE.—Has the witness, of late years, laboured under any defect of the eyes? (*A laugh.*) About two years since they began to fail, and they have been ill since.

Can the witness swear, during the 20 times that he rowed the Princess, that Guggiari was always in the same position in the boat.

Mr. Brougham contended, with great submission to their Lordships, that this was assuming that the witness was bound down as having stated that he had rowed the Princess 20 times or more.

The EARL of LAUDERDALE.—Twenty times or more, he said.

Mr. Brougham was willing to concede that fact: the witness had said so: but the Noble Earl was not to assume, he humbly submitted, that by a general expression of that kind it was meant to be intimated by the witness

that he had rowed the Princess either 20 times at least, or more than 20 times; or that a mere mode of expression was to be taken as meaning, *de facto*, 20 times exactly.

The question was withdrawn.

Did Guggiari, on all occasions, sit in the same position in the boat, with relation to you, when he and you rowed in that boat? In the same place.

Can the witness swear that Guggiari never was in the boat rowing the Princess from the theatre to the villa, when he (the witness) was not there? I cannot say I was there at all times—every time (*tutte le volte*).

Mr. Brougham suggested that the witness had sworn he was there every time.

EARL CATHCART wished to know whether the witness could see over the carriage? I could not.

How high did it come over your head? So much as that (the witness by signs intimated about 2 feet).

The MARQUIS of BUCKINGHAM asked the witness the value of the napoleons paid him. He replied that they were silver Napoleons, of the value each of 6 livres and a half of their money.

The CHEVALIER VASSALI was then announced by Mr. BROUGHAM.

Much interest was excited in the House and below the bar upon the occasion. His appearance was extremely prepossessing, and very much of a military character. He was immediately examined by Mr. Denman.

Of what place are you a native? Of Milan.

Does the witness understand English at all? A little.

What is his profession? I have the honour of being equerry to the Queen of England.

Are you in any profession? None.

Have you been in any? None; I have been a military man.

What rank did you hold in the army? My last rank was a Captain, commanding a squadron of dragoons attached to the late disbanded army of Italy. I was first in the Royal Italian Guards.

Where did you first become acquainted with her Majesty? At Torano; at the house or villa of General Pino.

I understand you had the honour of seeing her Majesty at General Pino's at Milan? Yes.

Did you dine with her also at General Pino's? Yes.

In what year was that? If I remember well, between 1816 and 1817.

Do you know Bergami? I know him.

Was he there at the same time? Yes.

Did he dine with General Pino? Yes.

Did her Royal Highness invite the witness to accompany her on any journey at that time? Yes.

What journey? From Milan to Turin.

Did you accompany her Royal Highness at the time? From Milan to Turin.

Did you afterwards accompany her Royal Highness on her tour to Germany? Yes.

Before you set out on that journey did her Royal Highness employ the witness in any situation in her household? I set out from Milan to perform the office of vice-secretary.

How long did you continue in her Royal Highness's service? Till the time that her Royal Highness returned to Capri.

Do you remember at what time of the year that was? I believe it was some time in 1818.

Let the witness recollect himself in order to ascertain whether his memory is right or no? I said that I believed it was at such a time, but the exact time I do not remember.

Did you enter into her Royal Highness's service at any subsequent time? Yes.

In what capacity? As equerry.

Have you continued in her service from that time to the present? Yes, as far down as her arrival at St. Omer's.

Was Bergami in her Royal Highness's service at all those times when you were? Yes.

In what department? As chamberlain.

Had Bergami any thing to do with the servants of the household, and the hiring of servants? He had the direction of the house.

Was it his duty to hire the servants and dismiss them? I believe it was his duty.

Has witness seen the Princess of Wales and Bergami walking together at different times? Yes.

Did he ever see them walking alone? Sometimes; I have seen them going out from the garden under the portico.

Have you seen them ride out together, either on horseback or in carriages? I have seen them in carriages with others.

Did you ever see them walking or riding without attendants, excepting in the gardens round the house? When I said "sulli" (alone) walking alone, I meant that I have seen them coming out of the gardens, and walking under the portico, solely or alone; by solely, however, I mean not alone, without any other person, for I was myself at a little distance.

Do you know whether Bergami was received at the tables of the neighbouring families of distinction? In what neighbourhood?

In the neighbourhood of Pesaro. Yes.

Were you with her Royal Highness at Munich? Yes.

Do you remember whether her Royal Highness, with her suite, dined with the King of Bavaria? Yes.

Do you know whether Bergami dined at the table with the King? Yes.

Did Bergami dine with the King of Bavaria at his table? With the King of Bavaria at table.

Do you know of any civilities passing between the King of Bavaria and Bergami? I saw the King treat Bergami with the greatest affability.

Do you know whether there was any present given him? Yes.

Will the witness be so good as to state what it was? A gold snuff-box, set round with brilliants, and adorned with the name of the King.

Was that present made by the King to Bergami? The man who came to Milan, and gave it to Bergami, showed it to me before him, and told me that the King of Bavaria had given it to Bergami.

Have you afterwards seen that snuff-box in the possession of Bergami? Yes.

What were the initials on the box, or the name? There were the letters "M. and J." which signified Maximilian Joseph.

Was there a crown upon it? No.

Do you remember at any time being at the Barona with her Royal Highness? Yes.

How long have you been there when her Royal Highness has been residing there? You must mention the particular times, for I was there many times.

I mean at a time when certain balls were given? I believe about six weeks.

Was that at the time of the carnival? Yes.

Do you know for whose amusement those balls were given? For the amusement of the suite, and of the family of her Royal Highness—now her Majesty.

What, in general, was the number of people present at those balls? It would be difficult for me to say the precise number; I should apprehend about 50 people.

Do you mean including the whole company? I mean her Majesty's suite, as well as the visitors who came—all of them.

Do you recollect whether any of the neighbouring gentry attended those balls occasionally? From the neighbourhood there came the families of the tenants.

The tenants of the Barona farm? Yes.

Did their fathers and mothers come with the children? They were there constantly.

Did you ever see the Prefect Domesani there? I have.

And the Baron Cavelletti? Yes.

Did you ever see any clerical characters there? I have seen there the curate of the Barona.

Were the families of the personages to whom you allude there? Yes, they were.

Were their wives there? Yes.

Their daughters? I do not recollect.

After dinner, did her Royal Highness and her visitors go into the room where the dancing was going on? Yes, they did, in the evening.

Did her Royal Highness and her visitors remain there any length of time? They came into the ball-room, and her Royal Highness soon withdrew into an adjoining room to play.

To play at what? At cards, sometimes at chess, and sometimes on the piano.

After the Princess left the room, did the servants and the visitors continue to amuse themselves? The servants did not remain long when the Princess had her visitors.

Did the Princess occasionally join in the dance? Yes, she sometimes danced when she came into the room where the dancing was going on.

Be so good as to describe the conduct of the persons so assembled when the Princess was there? It was most regular.

Did you ever see any thing indecent or improper in the conduct of any persons on those occasions? Never.

You say you went on the German tour with her Royal Highness. Were you at Carlsruhe with the Princess? I was.

Do you remember on what day the Princess arrived at that place? Yes, I do.

Mention the day, if you please? It was on the 25th of March, I believe, in the year 1818.

At what time in the day did you arrive? about noon, I think.

Do you remember where the Princess dined on the day of your arrival? Yes, perfectly.

Where? At the Grand Duke's.

Which of the suite dined there with her Royal Highness? There was, besides the Princess, Mons. Bergami and the Countess Oldi.

Where did they sup on the first day of their arrival? At the Grand Duke's.

Do you remember whether the Baron de Eudi, the chamberlain of the Grand Duke, saw the Princess there? I remember it perfectly.

Do you remember where her Royal Highness and suite dined on the 2d day after your arrival? Yes, at the Grand Duke's.

Did Bergami and the Countess Oldi attend her Royal Highness on those occasions? Yes.

Did Bergami and the Countess Oldi remain during the whole of each afternoon? No.

What did they do? I remember that, one of the afternoons Bergami complained of a head-ach, and caused his sister to accompany him home to the inn.

At what time in the evening was it? I believe about 5 o'clock.

Did her Royal Highness leave the Grand Duke's then also? No, she remained with the Duchess.

Did you remain and come away with her Royal Highness? Yes.

At what hour did the Princess come away? Late in the evening.

What was done, do you recollect, at the Grand Duke's that evening, after Bergami and the Countess Oldi went away? I recollect, among other things, they sung.

Did you sing; Yes, with the Duchess.

On the other days the Princess remained at Carlsruhe, where did her Royal Highness dine? At the Margravine's.

Were you present? Yes.

How were the evenings employed after dinner? Her Royal Highness and suite went to the theatre, and then to sup at the Grand Duke's.

Did the suite accompany the Princess both at dinner and at the theatre? Yes.

On the 4th day did the Princess and suite remain at Carlsruhe, or go any where else? The Princess and suite went to Baden.

Where did they dine on their arrival? At the inn.

Do you mean at the inn at Baden? At the inn at Baden.

How far is Baden from Carlsruhe? I cannot tell exactly; but it is, I believe, about a four-hours' ride.

The day after your arrival at Baden where did the Princess and suite dine? At the Margravine's.

Did her Royal Highness and suite sleep at Baden on the night you speak of? On the day we set out for Baden we reached it, and slept there on that night.

But on the following day, when the Princess dined at the Margravine's, how was the afternoon spent, do you recollect? In amusement in the society.

Where? At the Margravine's.

At what time did the Princess and party return to the inn? I think about 10 o'clock.

What was done on the following day? The day after the Princess and suite dined at the Grand Duke's.

Did you on the day after, accompanied by Bergami, go to Inspruck to correct a mistake about passports? Yes, we did.

At what time in the day did you set out? About noon.

When did you return to the inn where the Princess was? I believe it was between 2 and 3 o'clock on the following morning.

To what room did you then go? To the room of her Royal Highness.

Where was her Royal Highness then? She was lying or leaning on the bed, half leaning half lying.

Was the Princess dressed or undressed? She was wrapped up or covered with a thick shawl.

Was there any body with her Royal Highness? Yes.

Who was with her? There was first Bergami, there was Schiavini, and I saw the Countess Oldi come out of her own room.

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What room was that? The room immediately joining that of the Princess.

Did you see the little Victorine that morning? Yes.

Where? Sleeping on the bed of her Royal Highness.

Did you see her on the bed of her Royal Highness when you first entered the room?

Yes. I saw the child when I first saw her Royal Highness.

Did you at that time see Madame De Mont? I did.

Was she dressed or undressed? Dressed.

Did you see any officer of the police on that morning after you returned from Inspruck? Yes; not in the morning, but a few moments after we returned.

Did you speak to that officer? Yes.

After speaking to him, did you return to the room of her Royal Highness? I did.

How often?—Often.

In what manner? When we returned from Inspruck I went into the Princess's room to state our arrival; when the officer came, I went also to state who had come; and afterwards I went to state what he said about the country people clearing away the snow by order of the police.

Did the suite then make preparations to set out?—Yes, they did; they had been up the whole night.

You have said that, during that night, you were often in the room of her Royal Highness; did you see other persons of the suite there, also, during these proceedings?—Yes.

Who were they?—The same persons that I said before.

Were there beds at the inn for the whole of the suite?—Yes, straw beds.

Where were they?—Below stairs, and in the corridor near the room of her Royal Highness.

Do you mean the corridor in which the Princess's room opened?—Yes.

Were any of the suite lying on the straw in that corridor?—When we returned that night from Inspruck I saw none lying there; for every body was up, and waiting for us.

Do you recollect when the Princess resumed her journey?—At day-break on that morning.

Did the preparations to set out last until then?—There were no preparations to make, as we had engaged horses on the day before.

While the arrangements were going on, between your return and Bergami's that night, and before you set out at day-break, did you repeatedly see Bergami?—I saw him many times then.

Was he at all undressed?—Never.

Where did you see him?—In many places. I saw him in the kitchen, on the stairs, at the door, and in the room of her Royal Highness.

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Do you remember in the course of that tour having been at Trieste?—Yes.

How long did the Princess remain there?—A day and a half.

To what place did the Princess go from Trieste?—To Venice.

Were you at Rome with her Royal Highness?—Yes, many times.

Do you remember one time when her Royal Highness went from Rome to Sinigaglia?—Yes.

How long, do you recollect, did that journey last?—I cannot say precisely, but I think about three days.

In what carriage did the Princess on that occasion travel?—In an English landaulet.

Do you remember who travelled with the Princess then?—There were M. Bergami, the Countess Oldi, and the little Victorine, in the same carriage with the Princess.

Who travelled as courier in that journey from Rome to Sinigaglia?—I believe Carlo Forti.

Did you see him as a courier on horseback?—I did.

Did you on that journey see Sacchi on horseback as courier?—No.

How long was Carlo Forti in the service of the Princess?—He began his regular service at Rome; but he was provisionally engaged at Loretto.

State for what occasion he was provisionally engaged? As he was well acquainted with the city of Rome, he was sent on there with despatches.

Was Sacchi sent on with any despatches? No.

Do you remember why he was not? I believe he was spared because he was tired.

Do you remember was there a *pado vanella* (a carriage for one person) for the Princess in that journey? There was not.

Was there one belonging to any of the suite on that journey? There was not; but I believe Louis Bergami had one.

Describe what sort of vehicle it was? It is only calculated to carry one person.

Did you ever see her Royal Highness ride in such a conveyance? Never.

Have you ever seen the Turk Mahomet dance? Yes, I have, very frequently.

Was it when her Royal Highness was present? Sometimes I believe the Princess saw him from her window.

On such occasion did Mahomet do any thing indecent with any part of his dress? Never.

What sort of dance was it? It was a most simple dance: there was nothing indecent in it.

When the Princess was at Pesaro, did she pay visits to, and receive them from the principal nobility in the neighbourhood? Yes, she received the visits of all the persons of consideration at Pesaro.

Do you remember was the Pope's legate among the visitors? Yes, he was.

Was he a constant visitor? Yes; very much.

Were his visits frequent and long? Yes, they were visits of some days.

Name any other persons of rank who visited her Royal Highness at Pesaro? There was the family of Gaudolfi.

Was Gaudolfi a cardinal? Was he monsignor? He was a prelate.

Do you remember the Marquis Andalgi visiting at Pesaro? Yes, and the three brothers.

Who were they? One was a lawyer: and the other an architect for his amusement.

Was either of them a prefect? The Marquis was at the head of the commune.

Did Bergami visit these personages when not in the service of the Princess? He did.

At all of them? Yes.

Have you yourself visited these personages with Bergami? Yes, I have, many times.

At Rome was the Princess in the constant habit of entertaining persons of distinction? Yes; she entertained, and was entertained by, the first nobility at Rome.

I wish now to ask you whether, in all the times you have seen her Royal Highness and Bergami together, you ever witnessed the smallest impropriety of conduct on the part of either of them to the other? Never.

[The witness pronounced this last answer with great emphasis.]

How long have you served in the army? From the year 1805 to the year 1815.

Had you the honour of bearing any Order? I was honoured with the Order of the Iron Crown upon my return from the Russian campaign.

#### Cross-examined by the ATTORNEY-GENERAL.

You say you were in the army from the year 1805 to 1815. In what rank did you enter it? I was a guard in the first company of the Guard of Honour of the Viceroy of Italy.

Were you a common soldier in that corps, or an officer? When I say a guard, I mean a simple soldier in the Guard of Honour.

In what guard of honour? The guard of honour of the King of Italy.

When was the first time you were in the company of her Royal Highness? At the country house of General Pino, at Torano.

When was that? After the return of the Princess from the long voyage.

In what year?—I believe in 1817.

How often had you seen her Royal Highness before you were invited to go with her to Turin? I saw her at Torano, at the villa of General Pino, and at the Villa d'Este.

Then you only saw her three times before you were invited to accompany her to Turin?

I did not say I saw her only three times; I saw her at three places several times.

Who invited you to accompany her Royal Highness to Turin? Her Royal Highness herself.

Where? At the Barona.

I think you said your first situation in the service of her Royal Highness was that of sub-equerry; what salary had you in that capacity? None.

No salary at all? What salary had you as equerry? 240 louis a year.

How long did you continue in the situation of sub-equerry? Till our arrival at Caprini.

What time was that? I believe in 1818, or thereabouts.

When was it you first quitted her Royal Highness? I did not leave the service of her Royal Highness; I received a letter of dismissal at St. Omer's.

Does the witness mean to say that he continued in the service of her Royal Highness from the time he accompanied her to Turin till his arrival at St. Omer's?

Mr. Brougham. He has not said so.

The previous question and answer were then read by the shorthand-writer; after which the witness answered—I set out from Caprina to Milan, and was absent a whole year on affairs of my own family.

When was that? The day after I arrived at Caprini.

When was it you rejoined the service of her Royal Highness after you left it to go to Milan? I did not say that I left her Royal Highness's service; I went to Milan with despatches, and I remained there with my family on business of my own; and I was afterwards recalled by letter to the Villa Vittoria.

I believe that is near Pesaro? About a mile from Pesaro.

When was it you rejoined her Royal Highness at Pesaro, at the Villa Vittoria? In 1819.

Am I to understand that you continued with her Royal Highness from that time, down to her Royal Highness's arrival at St. Omer's? Yes.

You have said that you accompanied her Royal Highness to Munich, and that Bergami dined there at the King's table: did he dine there more than once? Yes.

How often? I can't precisely tell how often.

How long did her Royal Highness continue at Munich? About ten or fifteen days. I don't know precisely.

Where did she dine the first day? I believe at the inn.

Where the second? I believe with the King.

Where did her Royal Highness spend the evening of the second day? I don't know.

Where did she dine the third day? I can't precisely mention where she dined every day.

Where did she dine the fourth day? I have said that I cannot fix where her Royal Highness dined precisely every day.

Where did she spend the evening of the fourth day? Some evenings she passed at the King's, some at Prince Beauharnois's; but I don't know how to fix each day precisely.

Do you know how often her Royal Highness dined with the King?—With the King twice, and at the same table with him at other places, two or three times or thereabouts.

Where did you go from Munich? I believe, but I can't precisely say, to Nuremberg.

How long did her Royal Highness remain at Nuremberg? I believe two days.

Where did you go from that? I don't know.

Does the witness remember? Not precisely, I can't tell.

How long did that tour occupy? I should suppose three months, or thereabouts.

How many days did you remain at Carlsruhe? From the 25th. to the 30th.

Of what month? March.

How many days did you remain? Six days, including the day of our arrival and of setting out.

What time did you set out? In the evening.

Before or after dinner? After.

How far is the inn at Carlsruhe from the Ducal palace? I can't say exactly: it is about three minutes ride in a carriage.

How far is the palace of the Margravine from the inn? It is nearer than the Ducal palace.

At what hour did her Royal Highness dine with the Grand Duke? About three o'clock.

How long did they sit at the Grand Duke's table?—About an hour and a half.

What time did the evening parties and the theatre begin?—The evening parties at one hour, and the theatre at another.

At what hour did the theatre begin?—Between five and six o'clock.

What hour did the *conversations* commence?—At no fixed time.

About what time?—From half-past seven to eight o'clock.

Where was it you dined at Carlsruhe the first day?—At the Margravine's.

Was Bergami there?—Yes.

Are you quite sure he dined there the first day?—Yes.

Where did her Royal Highness dine the second day?—At the Grand Duke's.

Did Bergami dine there?—Yes.

Will you swear that?—Yes (with animation.)

Did Bergami dine with her Royal Highness every day at Carlsruhe?—Yes.

What time after your arrival at Carlsruhe was Bergami ill?—The second day.

At what time was he taken ill?—After dinner.

How soon after?—About four or five o'clock, or so.

You say he returned to the inn: did he re-join the party that evening;—When we returned to the inn he rejoined us.

About what time did you return home?—I believe from after seven to eight o'clock.

What makes you so precisely recollect where her Royal Highness dined at Carlsruhe, and not remember where she dined at Munich?—A man may remember one thing, and not remember another.

I understand you to say that, when you returned to Scharnitz, it was two or three in the morning?—Yes.

What time that morning did you set out from Scharnitz?—At day-break.

At what hour?—I should suppose between six and seven o'clock.

What month?—I don't know the month; it was very cold; it was during the winter, but I don't precisely remember the month.

Was it broad day-light when you set out?—It was not broad day-light. It was between light and dark.

Was it not dark? It was not dark; one could see very well.

What preparations were you making? We had to send persons to clear away the snow, as we could not well travel.

Aye, but I ask what preparations were making at the inn, not what the suite were doing? I have not spoken of any preparation but that of getting persons to clear away the snow.

Did you not go to rest that night? No.

You remained up that night? Yes.

What were you doing? I said I went backward and forward to her Royal Highness. We attended ourselves in getting something to eat, for we could get nobody to do any thing for us.

Did you often go to her Royal Highness's room? Yes, many times, but I don't recollect how many.

For what purpose did you go to her Royal Highness's room? Sometimes to give her Royal Highness something to eat; sometimes to tranquillize her Royal Highness's mind, and to clear away the snow, as she was anxious to set out immediately.

Mr. Brougham.—My Lords, I wish to have this interpretation of the witness's answer explained; no man in his senses can imagine that, her Majesty being then in her room, the witness could have any thing to communicate respecting the clearing away of the snow from that place. The witness's answer was different.

The answer was then corrected by the interpreter, and stood thus—sometimes to give her Royal Highness something to eat; sometimes to describe the state of the weather, and to tranquillize her Royal Highness's mind

respecting the clearing away of the snow, as she was anxious to set out immediately; and sometimes to ask her what she wanted.

Did you give her Royal Highness any thing to eat? No; but I entered the room with those who carried it to her.

When was that? About between 5 and 6 o'clock.

Was that before you set out? Naturally, as we set out between 6 and 7.

Where was Bergami on that morning? In many places.

What was he doing? He was doing the same as we were.

Why, I understood you to say just now, that you did not assist in making the preparations for the journey? Yes; but one who is in attendance on a person of her Royal Highness's exalted rank is in eternal movement.

How far is Scharnitz from Inspruck? Do you mean in miles, or how long a person might be going it?

The distance in miles? I do not know.

How long might you be going it? About 4 or 5 hours in a carriage.

How did you go to Inspruck? The first part in a sledge, and the rest by the post.

Had you travelled much that day before you set out from Scharnitz back to Inspruck? I cannot say precisely how much.

How long had you been travelling when you arrived first at Scharnitz? I cannot say.

Was it with her Royal Highness you travelled? With her Royal Highness.

How long had you been travelling on that day? I cannot say.

Do you remember when you left the place from which you set out for Inspruck? No.

Had you been long travelling? Some hours, but I cannot say how many.

Did you remain long at Inspruck before you returned to Scharnitz? Not long.

Were you not much fatigued from this travelling? The witness (looking expressively, and with a smile, at the Attorney-General) replied, "To a person who has served several campaigns, it was impossible that such a journey should be considered fatiguing."

Then you never slept at all on your return from Inspruck? Never.

You never lay down in the straw? No, not even for an instant.

Did Bergami? I did not see him.

Were the carriages unloaded at Scharnitz? No.

How many carriages accompanied Her Royal Highness from Rome to Sinigaglia? Four.

At what time did her Royal Highness set out from Rome? About 10 in the evening.

I believe it was very hot weather? Not at night.

But in the day it was? Very much so during the day.

Who travelled in the first carriage? Her Royal Highness, the Countess Oldi, Bergami, and the little Victorine.

Who in the second? I believe Lieutenant Hownam, and Mademoiselles De Mont and Brunette.

Who travelled in the third? Mr. William Austin, myself, my servant, and a servant on the box.

Who were in the fourth carriage? I believe they were servants.

Was Louis Bergami on that journey? No.

Was Cameron? I do not know what servants were in the fourth carriage; if I do not deceive myself, there was Solomon, a Greek servant, and a servant that I do not know.

Where did you stop the first day? At Antricoli.

Where the second? I believe at Norhera.

Do you remember that it was the intention of her Royal Highness to stop the second morning at Comino? I did not know the intentions of her Royal Highness.

Do you recollect any person having been sent forward from Comino to order horses, in order to continue your journey? I do not.

Where did you stop on the third morning? I do not know whether it was on the third morning or on the fourth morning that we arrived at Sinigaglia.

How long did you remain at Fano? A short time, about an hour, or perhaps two hours.

At what time did you arrive? I scarcely recollect; it was during the day, but it is impossible for me to say precisely.

Do you remember the theatre at Fano? I have seen it; but I was not there with her Royal Highness.

Do you recollect visiting any friend at Fano on the occasion now referred to? Yes, I do.

Did you tell Forti to apprize your friend previous to your arrival that you intended to be there? Yes.

Did not Forti set off first upon this journey, with a view of apprising your friend that you were coming? I believe he arrived a few minutes before us.

That is no answer to my question; I ask whether you did not direct Forti to apprize your friend that you were coming? I did not direct him to go before for that purpose, but I told him that if he should arrive first, I wished him to acquaint my friends that I was coming.

Do you remember seeing Sacchi at Fano? I do not.

Will you swear that you did not see him there? I swear it.

Do you know a place called Tervi?—Yes.

Did you stop there on your way to Sinigaglia? Yes, we stopped at a house there.

Did you there take any refreshment?—Something, I believe, but I know not of what sort.

Did you yourself take any? No, not I.

Did any other person take refreshment? I have said that I do not know what was taken.

Was any refreshment taken? Something, I believe, but I know not whether hot or cold.

Where was taken? In the carriage.

Who attended or brought it to the carriage? One of the servants.

What servant? I do not know.

Will you swear that it was not Sacchi who brought it? I do not recollect him attending.

Will you swear that he was not there? I cannot swear whether he was or was not there; but I do not recollect it.

Do you not recollect that Sacchi came and spoke to Mr. William Austin? No.

Will you swear that during the whole course of your journey you did not see him? I will swear that I do not recollect to have seen him.

Will you swear that he did not attend upon that journey; I cannot swear that; I cannot say whether he was or was not.

Did the Countess Oldi travel whole the way in the same carriage with her Royal Highness or did she change it during the journey?—She travelled always in the same carriage.

At what time did you arrive at Sinigaglia?—It was in the day-time.

Was it not after five or six o'clock? I do not remember precisely.

You do not remember, then, at what hour you arrived? I do not.

How many days was it after you had set out from Rome? Three or four days.

Do you know a person named Sacchi? Yes, I know him.

Was he also on the journey in question? He was.

Where was he placed? On the box of the carriage.

Of which carriage? That in which the servants rode.

Now, with regard to the balls given at the Barona, and the presence of Cavaletti at them, was he in her Royal Highness's service at that time? He was not.

Do you know a person named Antongena? Yes, I do.

Did his daughter attend the dances at the Barona? Yes.

What is Antongena? He is intendant of the Barona.

Do you recollect the names of any other persons who came to the balls given by her Royal Highness? Yes, I recollect Dr. Mometti, and the curate of the Barona.

Do you recollect any body else? Not immediately.

Did you yourself sometimes dance with the rest of them? I did.

Did you ever see the daughter of Antongena in any other room than that in which the dancing went on? Never.

Did you ever see any of the other females in a separate room? Never.

Did her Royal Highness herself sometimes dance with these people? Yes, sometimes.

Where was your family during your stay at the Barona? At Milan.

Where they ever present at those balls? They had not at that time been presented to her Royal Highness.

Do you know the wife of Bergami? I do.

Was she ever at any of those balls?—Never.

When did you last see Bergami? During the last month.

Where? At the Villa, and also at Milan.

At the Villa d'Este? No.

At the Barona? Yes; but the last time at Milan.

Were you often with him at that time? I was not.

And were you much with General Pino at the same time? When I was with General Pino no other person was present.

Did you apply to several witnesses to come and give evidence in this case? They offered themselves.

Did you undertake to indemnify them for so doing? No, that did not belong to my character.

Have you undertaken to indemnify any of them for coming here? Not I; that was all done by the advocate Henry.

Have you made any agreement with any of them about their indemnification? I have not; all I have done has been to execute the agreements made by Mr. Henry.

What agreements have you, made at his request, and with whom?

Mr. Brongham objected to this question, as implying what the witness had not admitted.

The LORD CHANCELLOR observed, that he certainly had understood the witness to say, not that he had made any agreements, but merely that he had executed those made by another party.

How many of the agreements made by Dr. Henry have you executed? The agreement with poor people was, that they should be allowed ten livres a day for their support and expenses, during their absence, and also a franc a day for each of their wives, and half a franc for each of their children; the cause of this latter allowance was, that passports could not be obtained without securing some provision for their families.

Was there no agreement about paying

money to any of them as a reward for coming here? There was no such agreement; the head master said he should suffer much damage from their absence, on which the advocate Henry said that the English laws granted indemnification for losses of that nature: it was therefore ordered, or rather requested, that the architect Ratti should make an account of what the loss might amount to; this was done on stamped paper, and the estimate appeared to be 3,000 livres of Milan. This sum I was directed by Mr. Henry to pay, and I paid it to the son of the head master, Jeramini.

Have you not paid money to any person as an inducement to him to give evidence in this cause? Never as an inducement to give evidence; I gave, at the departure of the witnesses, by order of Mr. Henry, a small sum, about two or three napoleons, as part of the ten livres a day which they were to receive, and I explained this to them.

By whom were you employed to do this? By the advocate Henry: I did it at his request.

How long have you been in England? I have been three times in this country.

When were you here first? When her Royal Highness was at Geneva.

When the second time?—After her Royal Highness came from Paris.

Did not you say that you quitted her at St. Omer's?—Certainly I did.

How long was it after her arrival in this country?—About six or seven weeks.

What was the occasion of your second visit?—I was sent for.

By whom?—By her Majesty the Queen of England.

How long were you on your journey here?—The second time I was about eight or nine days.

Did not you return afterwards at the Queen's request for the purpose of collecting witnesses at Milan?—I was sent to Milan to see the people who might wish to come over to give evidence in her Majesty's favour.

How many did you there communicate with on the subject of becoming witnesses?—Forty or fifty.

How many came over with you?—Two.

Who were they?—Natti, and Carlo Maggiore.

Did the former come over as your servant?—He came over as a witness.

Did not you represent him to be your servant when you left the Austrian states?—I never did; I had my own servant.

Did you frequently see Bergami on your return to Milan?—I saw him sometimes; yes, frequently.

Did you see him every day? No.

Did you see him at General Pino's? No.

How long did you remain at Milan? Two months.

Did you go to Pesaro? Yes, I did.



Did you see Bergami there? I did.

Did you travel with him to Milan? No.

Did he go first? No; he came a few days after.

How long did you stay at Pesaro? About half a day.

What was the reason of your leaving the Queen at St. Omer's? I did not leave her of my own will? I should have followed her to England, but her Majesty thought proper to dismiss me to my retreat.

How many of her suite left her at St. Omer's? Bergami, Ragisiani, two maid-servants, and three or four others.

Did you accompany Bergami on his way back? Yes.

Where did he go? To Paris.

Did you take the little child Victorine with you? We did.

Did you live at Paris with Bergami? I did.

Where? At the Hotel de Frescati, in the Rue Richelieu.

Did you live with him there all the time? Except during a short excursion.

Who paid the expenses of your journey and stay at Paris? I paid them.

Did you pay for Bergami as well as yourself? I paid for Bergami, and was reimbursed.

Who reimbursed you? Bergami.

In what carriage did you and Bergami travel from St. Omer's to Paris? It was a carriage for three people.

Was it in a carriage belonging to the Queen? I believe so.

Had you more than one carriage? Yes, we had two.

Did the second also belong to her Majesty? I do not know to whom the second belonged.

Had it accompanied her to St. Omer's? Yes.

What servants left her Majesty at St. Omer's? Francisco Cornaghi, Pori, and another.

Did you proceed to Italy in company with Bergami? No, I was here at that time.

Did you leave him then at Paris? I did.

Did you afterwards see him there? No.

When did you see him afterwards for the first time? At a Villa near Pesaro.

Where did you see the Countess Oldi on your return? At her house at Milan.

Did you see her in France? No.

Was her Majesty attended by any *dame d'honneur* after the Countess Oldi left her? No.

Did she travel with her from Pesaro? I think not.

You were on that journey? I was.

And the Countess Oldi was not one of the party? No.

Where did you leave Louis Bergami? At Pesaro.

Where did you last see the mother of Bergami? At Milan.

When? Every time I was there.

Have you ever seen Bergami's wife? I have.

Have you ever seen her at the Barona? I believe I saw her one day.

When? When I was last there.

Was Bergami there? Yes.

Was he at the Barona? Yes.

Where was the little Victorine? At Paris.

With whom? With the two young ladies.

What young ladies? The same young ladies that were with her at St. Omer's.

The last time you saw the little Victorine was at St. Omer's, with two servants of her Majesty? Yes, we travelled with her to St. Omer's.

Did you afterwards travel together to Paris? Yes.

Was Victorine at the same hotel with you at Paris? Yes.

With these two female servants? Yes, always.

Did these servants take care of Victorine? Yes, they did not like to return home.

Was the little Victorine at the Barona when you were there? No.

True, I think you have already said not. What salary have you now from her Majesty? I have no pay, I have a pension.

What is your pension? The same I had when in her Majesty's service.

What is it? About two hundred Louis a year.

How many francs? About 4,800 francs.

Where does your father live now? My father at Milan, my wife in London.

Where does your wife live in London;—At Saloniere's hotel.

Do you yourself live there? Yes.

Who pays the expense of your living here—of the living of you and you and your wife? Till now I have not paid the account; I do not know.

Who is to pay it?—I believe that, as a witness for her Majesty, the Government is to pay.

Have you received any money from any person while you have been in England?—Never; nor I have not yet been paid for my journey.

Did you take any money out with you when you went to Milan the last time?—I do not travel without money. (A laugh.)

And who gave you the money going out to Milan;—or for the purpose of going to Milan?—I received 100l. from Mr. Coutts.

On whose account did you receive that sum for going to Milan? Who gave you the order on Coutts for 100l.? Her Majesty the Queen.

Did you not take with you also a letter of credit when you went to Milan? No, I did not.

Did you receive any money from Marietti when you were at Milan? I received some more money by order of Mr. Henry.

How much? I received (as we understood) 52,000 livres of Milan.

Is that the only money you received either in England, at Milan, or elsewhere? I received something at Venice.

How much? I believe 100 Napoleons at Venice.

Who travelled with you to Venice? I went there with a son of Mr. Wood.

What did you go to Venice for with Mr. Wood? To acquire some knowledge about a person who was examined here.

Did Mr. Wood travel with you any where else? He went from this to Milan with me.

Who paid the expense of your journey to Milan when you and Mr. Wood travelled there? I did.

Did you travel with any other person besides Mr. Wood when you were in Italy?—I travelled with the courier.

Did you travel with any other gentleman there? In going from this to Italy I travelled with the son of Mr. Wood, a courier, and my servant.

But whilst you were abroad, in Italy, did you never travel with any other person besides Mr. Wood and the servant? Yes.

With whom? Mr. Meoni.

Who else? No person.

In Italy, or elsewhere, when abroad? No person in Italy but Mr. Meoni and Mr. Wood.

Don't you remember to have travelled with any other gentleman, when abroad, besides Mr. Wood? No.

Are you sure that you have travelled with no other person but Mr. Wood—with no other gentleman, English or foreign?—Yes.

Where did you travel to besides Venice and Milan? To Rome.

Did you go to Switzerland? Never.

From Rome did you return to Milan? Yes.

What countryman are you? A Milanese.

Have you any other fortune besides the pension you receive from her Royal Highness? Yes, I have some funds, some property of my own.

The Attorney-General signified that his cross-examination was at an end; but, shortly after, in the absence of the Marchese Spinetto, he requested leave, through the interpretation of Mr. Cohen, the Queen's interpreter, to put the following question:—

Do you know where Francisco Serra now is? He is in London, at Hammersmith.

After waiting a few seconds, Mr. Brongham suggested that it would save their Lordships' time if their Lordships would proceed with

their examination through the medium of Mr. Cohen, but the return of the Marchese Spinetto rendered this unnecessary.

#### Examined by the Lords.

The EARL of LIVERPOOL.—I ask the witness whether any person slept in the room of the Princess at Scharnitz? No.

I ask whether he means that he knows that no person slept there, or that he knows nothing about the matter? As far as I know, nobody else slept there; she slept alone.

LORD ELLENBOROUGH.—I am to understand the witness to say that Carlo Forti was first taken into her Royal Highness's service at Loretto? I say that Carlo Forti went into her Royal Highness's service at Rome, but was provisionally sent with despatches from Loretto.

Did you never see Carlo Forti in her Royal Highness's service before you saw him in her Royal Highness's service at Rome? He was employed to carry despatches from Loretto to Rome provisionally.

Did you accompany her Royal Highness in her journey from Milan to Loretto? Yes.

Did you see Carlo Forti on the journey? Carlo Forti set out as a person belonging to the service of the suite, but not as a courier. They did him the favour to take him, in order that he might see his brother, at Rome.

Did Carlo Forti, in point of fact, accompany her Royal Highness in the journey from Milan to Loretto? No, not as a courier.

EARL GREY.—Did Carlo Forti travel in her Royal Highness's suite, in the journey from Milan to Loretto? From Milan to Loretto he travelled with the suite of her Royal Highness.

And at Loretto, if I understand you rightly, he entered provisionally into her Royal Highness's service? He did not enter provisionally into the service, but he was despatched to Rome, provisionally, just as an ordinary courier would have been on the occasion.

Did Carlo Forti go from Loretto to Rome at the same time with her Royal Highness, or before her? Yes.

I want to know whether he went with her Royal Highness from Loretto to Rome? Yes, he did.

I wish to know whether I understand you rightly to say, that, on the second night of being at Carlsruhe, her Royal Highness returned from court to the inn between 7 and 8 o'clock? Yes.

LORD CALTHORPE.—Did you, immediately on your arrival at Scharnitz from Inspruck, go into her Royal Highness's room? Yes.

Was Bergami with you on that journey?—Yes.

Are you certain that, from the moment of arriving at Scharnitz, continual preparations were going on in her Royal Highness's room for leaving the inn? I don't remember to

have said that preparations were making in the room of her Royal Highness.

Are you certain, from the moment of your arrival at Scharnitz, there were other persons besides Bergami and the Princess continually in that room?—

Mr. Brougham.—With very great submission to your Lordships I must state that this question cannot be put. The question assumes the witness to have said that Bergami rested in that room, a circumstance which he never had stated.

The question was not pressed.

Do you know how many beds there were in her Royal Highness's room at Scharnitz? I saw one.

Do you know what is the ordinary time for going from Scharnitz to Inspruck by the post? It is according to the snow. If there is much snow, it takes a long time; if there is little, you get there sooner.

About how many hours do you suppose you were without rest upon your arrival at Scharnitz from Inspruck? In going, stopping, and returning, I was from noon until the next morning, when we set out from Scharnitz.

Do you recollect whether you saw any mattress on the floor of her Royal Highness's room at Scharnitz? No.

Do you recollect whether there was one? There was not. (This answer the witness gave in English.)

Do you recollect any other place where you saw performed that dance which you have before mentioned? Yes.

Did you see the person perform that dance at the Villa d'Este? Yes.

Do you recollect whether the Princess was present when that dance was performed? I believe once, at a window.

Are you certain whether her Royal Highness was there? I believe she was at the window; I am not certain.

Do you ever remember any lady of distinction, and respectability of character, in your own country, to have witnessed such a dance? Not to my recollection.

The witness having answered this question very promptly, the Marchese Spinetto exclaimed, "My Lords, he understands English!"

Mr. Brougham.—I wish to know, from what source of information more than that which the House is in possession of, the Marchese Spinetto has made this statement—no such thing, nor any thing in the least like it, having been proved.

The Attorney-General. The witness has answered a question in English.

Mr. Brougham.—The witness originally said "I understand a little English;" but the Marchese answers for it that he understands a great deal.

A PEER.—He ought to be asked distinctly whether he understands English or not.

No. 51.

LORD CALTHORPE's question was repeated. The witness answered—In my presence I do not remember that there was any other lady who witnessed this dance.

Do you know whether this dance is called by any particular name? No.

Is it very like any other dance of which you do know the name? No.

Do you ever remember to have seen any lady of distinction, or of respectability of character, in your own country, witnessing this dance precisely? I have before said no.

Was Mahomet among the servants who were dismissed from her Royal Highness's suite on her arrival at St. Omer's? It is almost three years since he went away.

EARL CATHCART.—You have said that her Majesty dined at Munich with the King of Bavaria. I wish to know whether her Majesty saw the Queen of Bavaria on that occasion? She did.

Was that the only time her Royal Highness dined at the King's table? Her Royal Highness dined there often—several times.

The EARL of LAUDERDALE.—I want to know when you last saw the Countess of Oldi? When I went to fetch her at Dover.

When was that? About a fortnight ago. Is she now in England? Yes.

When did you first see her? Two or three years ago.

The following questions were put by Mr. Brougham, by the permission of the House:—

You have been asked as to ladies of distinction and respectability seeing this dance; I wish to know whether there was any thing in this dance of Mahomet, when you saw it, which any lady of distinction and respectability, in your opinion, might not have witnessed? Without doubt it was a ridiculous dance, and no more.

Do you mean that there was any thing indecent or improper in it? Nothing at all.

When the Princess, on the second night she was at Carlsruhe, returned from the palace to the inn, did you accompany her? No.

When did you go there? When she returned home, between seven and eight o'clock.

It is about that time I am now asking; did you accompany her? Yes.

Into what room of the inn did you accompany the Princess? Into the hall—the saloon.

Whom did you find there? Bergami and his sister, and another person, come to meet us.

Was Bergami dressed at that time? He was in an uniform.

How was the Princess dressed? I do not recollect.

Was she in a court or state dress? She

was dressed with great splendour.

Did you all go the Margravine's together, Bergami and the rest? Yes.

How long did you stay there? Till about ten o'clock.

By the EARL of ROSEBURY.—Did the Princess remain in the saloon during the whole time till she went to the Margravine's? Yes.

You have mentioned two periods, two o'clock and five o'clock. I wish to know if between the hours of two and five you went into the bedroom of the Princess? I never was more than a quarter of an hour, or half an hour, without going into her room.

The witness was then ordered to withdraw, and he retired accordingly.

The EARL of LIVERPOOL rose, as if (we believe) to move the adjournment, as it was now half-past three, when

Mr. Brougham advanced to the bar, and begged to state, as we understood, why he was not prepared at this hour to call another witness. He then addressed the House in the following terms:—"It is of great importance for me to state to your Lordships the predicament in which I and the other counsel for her Majesty are placed. We have proceeded thus far with the case of our illustrious client—with what success and fulness of evidence it will remain for the House hereafter to decide. But I now have to submit to your Lordships that we find ourselves reduced to the necessity of requiring the assistance of the Court before which we are acting, and to recur to the demand made upon its justice in the outset of this proceeding, or of that part of this proceeding which consists of the defence of her Majesty. Your Lordships will recollect that in consequence of the desire expressed by the House, we began that defence by calling a witness who had been sent over to bring from Carlisle a person of great distinction, and as a witness not only of the highest importance to the Queen's case; who was to prove not only all that was deficient in our evidence, but to negative the testimony of Kress; who was to follow up all that we had urged against the principle and the particular facts of the Bill by shewing, what he alone could show, that her Majesty was not the person described in the preamble—that she was not given to low habits—but of every importance—that she did not frequent base company—that she did not skulk from the society of her equals—and, above all, that she did not screen herself from intercourse with her friends and family relations. On the contrary he was to prove that long after the time to which the evidence for the Bill applied—long after her Majesty's return from the long voyage—she came into Germany, frequented the courts of her blood relations and allied connexions, and in their presence placed herself with her suite, whom they received; and that there, and not in

Italy, she desired to fix her abode, and had adopted measures for taking a palace, where she might in future remain. She had no wish to skulk from thence, but proposed to stay there for the rest of her days, for aught I know, in the immediate neighbourhood of her Serene relatives. After what I have already proved, and after the comments on the testimony on the other side, I should consider this evidence complete, decisive, and plenary, and as leaving me not one single stone to remove of the ruins of the structure of the case that has been brought against her Majesty. I am still deprived of this material witness, and his evidence is still withheld from the defence of the Queen in the same manner that I complained it had been withheld when the subject was last before the House. I am bound, in justice to his Majesty's Government, to acknowledge that they have done all that in them lay to remove this difficulty: against their conduct I have nothing to offer; and that we did not sooner apply for assistance to them I trust will not be imputed to us as a fault when it is recollected that we only knew of the obstruction a few hours before we mentioned it to the House. If we had complained by anticipation, the effect would have been to furnish the other side with a list of our witnesses. But they have used their influence in vain; the Baron d'Ende, the Chamberlain, who was at first so willing to come until his master refused him leave, is not now to be procured. It turns out again, that when he was applied for by the King's Minister at Carlisle, who kindly was sent to for the purpose, permission was again refused, at least as he thought, at a private and verbal conference. Afterwards the representation was made in writing, and he was then told by Mr. Berstett, the Minister, that permission had not been refused to the Baron, only that no steps would be taken to compel him to come. This was stated by the same Mr. Berstett, who, I am in a condition to prove, was the very man who had compelled Kress to come over to give her evidence in support of the Bill. It was then communicated to the Baron, that he might go to London if he thought fit; but the Baron, who was an excellent man, and would have been an excellent witness, was also an excellent Chamberlain; he was a Chamberlain by profession, and with all the frailties of Chamberlain, for no sooner was it announced that he might come than it was discovered that he was ill of a fever, as if Rastelli's sickness had crossed the Alps to affect him. However, it was asserted to be of serious consequence, and steps were immediately taken by him for a serious cure. This, of course, was to be a long process, and the Baron finally refused to come, well knowing, no doubt, what Mr. Berstett was made of, and well knowing also

on which side of the question the wishes of some folks must be. I say that his Majesty's ministers used their utmost endeavours: we do not charge them at all, but they have not had plain honest Englishmen to deal with, but wily, crafty, foreign courtiers, who thought every body they had to deal with as roguish as themselves. These persons paid no attention to the representations of the King's minister; Mr. Lamb used all the arguments he could employ, and he put them forcibly and ably, but all in vain, for we knew very well that there is a different inclination at the bottom as to witnesses coming for the bill and against it. Abroad they understand one another a great deal better than we understood our ministers here; and Mr. Berstett having made his representation to the chamberlain, that chamberlain could take a hint; and suddenly, with the easy compliance of an amiable good creature, and of a faithful honest chamberlain, he immediately falls sick of an illness, which it is difficult to say how he acquired, unless by some communication with Rastelli. When the papers are presented to your Lordships, you will find something to call for comment, but nothing to censure, in the conduct of the King's government. What I have stated is a misfortune to the Queen arising from the nature of her situation. Regarding the conduct of foreign governments I will not argue excepting from what I know; but her Majesty feels the consequence of this state of things, and is now and for ever deprived of this important, this all-important, witness. I throw myself on your Lordships with entire confidence that the Court will give due weight to this statement, and will not proceed upon the new and monstrous principle that a person accused of nine or ten charges, and who has refused seven or eight of them, though prevented by unavoidable circumstances from giving a complete answer to the rest, is still, for the first time since justice was known in our courts, to be held guilty.

Counsel were then ordered to withdraw.

The EARL of LIVERPOOL said, that after the long examination of the witness who had just withdrawn, it appeared to him sufficiently late in the day not to call another. On this account he had risen to move the adjournment, and also to lay on the table, by command of his Majesty, the papers to which the Learned Gentleman had referred. They had been received yesterday, and government immediately felt it their duty to communicate copies of them to the Counsel for her Majesty. It was thus that the Attorney-General for the Queen had become acquainted with their contents. He (the Earl of Liverpool) was perfectly satisfied that, when the house should have read these documents, it would be convinced that every effort had been used by Ministers to obtain the attendance of the individual named; and could say most sin-

cerely and conscientiously that it had been not only their duty, but their wish, for the general purposes of justice, to endeavour to secure his presence for examination at the bar. The Learned Counsel had therefore done no more than justice to the King's Government in saying that they have left no exertion untried to obtain the attendance of the Baron d'Ende. Nothing more remains for me now but to lay the papers on the table; what operation they may have upon the whole case hereafter, it is not for me to determine. The papers have been printed, and will be ready for delivery in a few hours.

The LORD CHANCELLOR then put the question of adjournment.

The Attorney-General, however, presented himself to the notice of the house, and, amidst many cries of "Places, order," asked (as we were informed by those who stood near to him) what course the Counsel for her Majesty now intended to pursue?

Mr. Brougham replied, "I thought it my duty to give the explanation I have afforded why we did not proceed with more evidence to-day. I shall take till the next meeting of the Court to consider what course the Counsel for her Majesty must pursue."

Adjourned at a quarter to four.

## House of Lords.

MONDAY, OCTOBER 23, 1830.

At ten o'clock the Lord Chancellor took his seat, and after prayers the House was called over.

The EARL of HARROWBY brought up the report of the Committee, to which the extracts from the correspondence between Mr. Powell and Col. Browne, relative to the absence of Rastelli, were read.

The Clerk read the report, which was to the following purport:—

"The Lords' Committee appointed with power to examine John Allan Powell, and to verify and compare extracts of his correspondence with Col. Browne with the originals, and to whom the said extracts were referred—report, That the committee have called before them John Allan Powell, who, being examined, has stated that the extracts presented by him at the bar of the House, contain the whole of the correspondence between him and Col. Browne relative to the absence of the witness Rastelli. The committee then proceeded to examine, verify, and compare the said extracts with the originals, and found the same correct. These extracts, in the opinion of the committee, might be classed under two separate heads. The first consisted of extract of letters from Col. Browne to Mr. Powell, previous to the 14th of September, when Rastelli was de-



**LIEUTENANT HOWNAM** was then placed at the bar.

Mr. Brougham.—Have you got the diploma of the order of Santa Carolina with you? I have.

Is it under the regular seal of the order? Yes.

The **LORD-CHANCELLOR** directed the diploma to be delivered in, and the witness was ordered to withdraw.

The Italian interpreter for the King then read the diploma in Italian, and translated it paragraph by paragraph, the interpreter for the Queen looking on to check him. It was as follows:—

“ Jerusalem, 14th July, 1816.

“ By these presents subscribed (or signed) in the hand-writing of her Royal Highness the Princess of Wales, and bearing her seal, is instituted and created a new order of knighthood, to recompense (or reward) the faithful knights who have had the honour to accompany her Royal Highness in her peregrination (pilgrimage) to the Holy Land.

“ First—This order shall be given to, and worn only by, those who have accompanied her Royal Highness to Jerusalem, with the exception of the physician to her Royal Highness (Dr. Mochetti), who was only prevented by accident from following her Royal Highness.

“ Secondly—Sieur Bartolomew Bergami, Baron Francini, Knight of the Grand Order of Malta and of the Holy Sepulchre of Jerusalem, Equerry to her Royal Highness, shall be Grand Master of the order, and his children, as well male as female, shall succeed him in it, and wear the same order, which shall descend to their progeny, from generation to generation to the end of the world.

“ Thirdly—The same advantage is granted to the Knight of the Holy Sepulchre, Mr. William Austin; and his legitimate children, either male or female, for ever, shall enjoy this honour.

“ Fourthly—This honour shall be granted to you, Joseph Robert Hownam, Captain in the English navy, who are created Knight in the suite of her Royal Highness the Princess of Wales; this distinction to be enjoyed by you merely as a personal honour, the cross and patent, on your demise, to be restored to the Grand Master.

“ Fifthly—The Grand Master shall wear the cross of the order round his neck, and the other knights shall wear it at the button-holes on the left-hand side of the coat.

“ Sixthly—The above-mentioned order shall consist of a red cross, with the motto, “ *Honi soit qui mal y pense*,” and shall be called by the name of Santo Carolina of Jerusalem. The ribband thereof shall be lilac and silver. (Signed) “ **CAROLINA.**

“ Bartolomew Bergami, Knight of Malta, Baron Francini, Knight of the Holy Sepulchre, Grand Master of the Order.

“ To Joseph Hownam, Knight, in the suite of her Royal Highness the Princess of Wales.”

The Marchese Spinetto —“ My Lords, I do not know whether the number on this diploma is 16 or 15. I think it is 15: it is not quite clear: there may be some doubts about it. Your Lordships will be best able to judge of it yourselves.” (*A laugh.*)

The Marchese then handed the parchment to one of the clerks of the house, who gave it to the Lord-Chancellor. His Lordship inspected it for a short time, but did not make any remarks on it.

The **DUKE of SOMERSET** then rose, and expressed a wish that Lieutenant Hownam should be recalled: he wanted to put two or three questions to that gentleman regarding the tent-scene on board the palacre.

**EARL GREY** suggested to his Noble Friend that the best time for recalling Lieut. Hownam would be after the Counsel for her Majesty had concluded their defence.

To this suggestion we believe that his Grace concurred, as nothing more was then said about the attendance of Lieutenant Hownam.

The **LORD CHANCELLOR** then moved that the original and the translation of the diplomas just read to their Lordships should be entered on the minutes. Ordered.

#### EXPENSES OF PROSECUTING THE BILL OF PAINS AND PENALTIES AGAINST HER MAJESTY.

**LORD HOLLAND** had a question to put to the Noble Lord at the head of his Majesty's Government, arising out of the papers which had been laid upon their Lordships' table, relative to the expenses which had been incurred in prosecuting the Bill of Pains and Penalties against her Majesty. He had observed that there was an item of 18,000*l.* out of the secret-service money: now, he wished to be informed what the secret-service was for which this money had been paid.

The **EARL of LIVERPOOL** was understood to reply, that, as long as this prosecution continued a secret transaction, the funds out of which the expenses of it were paid would be the sums annually voted by parliament as secret-service money. When the prosecution was finished, the money would be drawn from some other fund, of which the accounts were more open to the public.

The **EARL of DARNLEY** said, that he, too, had some questions to put to the Noble Earl, relative to the accounts which had just been mentioned. He wished to know whether the whole expense of the Milan Commission was included in those accounts, and whether the expenses of the witnesses were included in those or any other documents.

The EARL of LIVERPOOL said, that these accounts included all the expenses of the prosecution, as far as they could at present be made out, except those which had been incurred by the messengers.

*Re-examination of DE MONT.*

Mr. Denman then rose and stated the reasons which had induced him to apply to their Lordships for leave to re-examine M. De Mont. His object was to examine her upon certain points with which he was unacquainted when he had formerly cross-examined her. Of those points, if she admitted them, his illustrious client was entitled to have the benefit; and if she denied them, he was entitled to examine other witnesses, to contradict and impeach her testimony. Her Majesty's Counsel stated these circumstances, in order that there might be no misconception of the reasons for which she was recalled.

The LORD CHANCELLOR was understood to say that the application made by the Learned Counsel was certainly within scope of the permission which had before been given him by their Lordships.

After a single remark from the Earl of Lauderdale, which was inaudible below the bar,

The LORD CHANCELLOR proceeded to say, that after the examination in chief on the part of the prosecution, the cross-examination on the part of the defence, the re-examination on the part of the prosecution, and the final examination by their Lordships—all which had taken place with regard to this witness—any question which counsel might wish to put to her must be put through the medium of their Lordships. Perhaps, after this statement, their Lordships would permit counsel to put questions directly to the witness in order to save time. (*Hear, hear.*)

**MADemoiselle DE MONT,**

*Examined by Mr. WILLIAMS.*

She was ushered into the House by one of the agents of the bill, and examined through the medium of an interpreter.

I wish to know whether the witness is acquainted with a woman of the name of Frauesca Martini? I believe not.

Does she know a man of the name of Henri Martini? I do not recollect any such name.

Does she know a place in Switzerland of the name of Morge? Yes.

The woman of whom I speak is a milliner (*une marchande des modes*) at that place: does she know her now? I know a person at Morge of the name of Martini (pronouncing the second syllable short) not Murteni. (*A laugh.*)

I wish her to be asked if she saw that wo-

man, under the assumed nomenclature, in the month of April, 1818? I had seen her several times, but not in that month.

In 1818? I don't recollect (*je ne m'en rappelle pas*); but I may have seen her in that year.

Does she recollect having sent to that woman to make a bonnet for her? I can't recollect sending for her, because I did not reside at Morge.

Without sending for her, then, does she recollect seeing her at that time about a bonnet? I may have seen her, but I do not recollect whether I did or not.

I wish her to answer, did she see her—yes or no? I know this woman.

I wish the witness to recollect whether she had not some conversation with the woman I have mentioned about her Royal Highness the Princess of Wales in the year 1818? As I do not recollect seeing her then, I do not recollect any conversation with her.

Ask the witness whether, after she left the service of the Princess, she ever saw Madame Martini? Yes; I saw her afterwards.

Had not the witness at that time some conversation with her regarding her Royal Highness the Princess of Wales? I do not recollect (*je ne me rappelle pas*) whether I had conversation or not—it may be I had, but I don't recollect it in the least.

Does the witness recollect Madame Martini speaking to her about her journey? I do not at all recollect her talking to me on such a subject.

Does she mean to say that she did not hold any conversation on such a subject? I may have had a conversation upon it, but I do not recollect.

I will endeavour to put her in mind of it then: does not the witness recollect that she spoke to her about the conduct of her Royal Highness the Princess of Wales? I do not recollect.

Nor of those who surrounded her Royal Highness the Princess? I do not recollect; I often spoke about the Princess, but not about the persons who surrounded her.

Did not Madame Martini ask the witness a question about the character of her Royal Highness the Princess of Wales? I do not recollect having a conversation on that subject. It may be, but I don't recollect.

The witness says that she recollects being at Morge; does she recollect having a bonnet mended whilst she was there?—

The Solicitor General objected to this question: she had not said that she had been at Morge.

Has the witness been at Morge? Yes.

Did not Madame Martini put this question to the witness—Whether the Princess of Wales was not a woman of intrigue (*une femme galante*)? I do not recollect any con-

versation with that woman on that subject.

Does she mean to say that she had not such a conversation, and that Madame Martini did not put that question to her? I do not recollect.

Will she say that that question was not put to her? I do not at all recollect that question, I have not the least idea of it.

Does the witness recollect being angry at having that question put to her? I do not at all recollect this question. I have no idea of it.

Does she recollect saying to the woman Martini that it was all a calumny, and that it was her enemies that spread that rumour?—I do not recollect any thing like it. I have not the slightest idea of it at all.

Will the witness swear that she did not say so?—I will not swear. It may be. I have not the least idea of it. Before I was put upon my oath I never said a word of what had passed in the house of her Royal Highness; on the contrary.

If that be so, does the witness mean to swear that she did not make use of that expression, or of something like it?—I have not the least idea of such a conversation.

But will she swear she did not say so?—I will not swear, because I have not the least idea of it.

Ask her if she did not say to Martini that the Princess of Wales, after she left England, had been perpetually surrounded by spies?—I never could have said so, because I never saw any spies.

Will the witness swear that she said nothing about spies?—I will not swear it; but I do not recollect to have ever said it.

The witness said just now that she could not have said it, because she had never seen any spies: what does she mean by that?—I do not recollect ever saying so at all.

But I understood her to say that she could not have said it, because she knew nothing of any spies:—I don't think that I ever said so.

Will the witness swear, then, that she never said any thing about spies?—I will not swear it.

Did she not say to that woman that the Princess was very unfortunate?—I do not recollect this conversation at all.

That the most simple actions of her life were always misrepresented?—I do not recollect ever saying so.

It was rather a long conversation. Have you a bad memory?

In putting this question, the Interpreter made use of this expression.—“*Votre mémoire vous serve-t-elle bien.*”

The Solicitor-General took some objection to the translation of the question, and also to the question itself. It was not pressed.

Will the witness swear that neither this conversation nor any part of it took place in

1818?—I cannot swear what I do not recollect. I have not the least idea of it.

Does the witness recollect being at Madame Jacrois', at Morge?—Yes.

When was it?—I have been there several times.

In 1818?—I have been several times there after leaving the service of the Princess; but I do not recollect when precisely.

Ask her if she was not on a visit at Morge in 1818?—Yes, I was there in 1818.

When she was there, had she not a bonnet altered by Madame Martini? It may be; but I do not positively recollect.

Have you no memory about your bonnets being mended by Madame Martini? I have had several bonnets altered by her.

I wish to put in a little more of the conversation, in order to call it to the witness's mind. Did she not tell Mad. Martini that she had always been about the person of the Princess?—I do not at all recollect this.

Will she swear that Martini did not remark to her, that as she had been about the person of her Royal Highness the Princess of Wales, she must have observed all her actions?—I do not recollect this conversation; it may be, but I have no idea of it.

The LORD CHANCELLOR.—Mr. Williams, you are aware that these questions must appear upon the minutes as the questions of their Lordships, and it is for them to consider whether it is proper that the same question should be put 40 times over.

The EARL of LAUDERDALE observed, that the interpreter had interpreted the question as “Does the witness recollect?” whereas the question was “Will the witness swear?”

Mr. Brougham defended the interpreter, and said that it was in his (Mr. Brougham's) recollection that the interpreter had frequently asked the witness “*Voulez vous jurer?*”

After an observation from the Lord Chancellor,

Mr. Williams proceeded in his examination.

Ask the witness whether or no Madame Martini inquired often of her, if there had been any thing unchaste in the conduct of the Princess? I do not at all recollect having had this conversation; I have not the least idea of it.

Will you swear that it did not happen; that this conversation did not take place in these very words, or to that effect? I cannot swear it; I do not recollect it at all.

Will you swear that you did not reply to Mad. Martini to this effect:—“My God! never in her life! it is impossible for any body to be more virtuous than the Princess of Wales?” I do not recollect; I cannot recollect having had a conversation on that subject with Mad. Martini.

Will the witness swear that she had no conversation on that subject with Mad. Mar-

Oh! I cannot swear it; but I have not the least recollection of it.

Do you believe that you have used these expressions, or expressions to this effect in answer to a question put to you by Mad. Martini? I do not recollect such a question; but if the question took place, I don't believe that I made such an answer.

Did you not also observe to Martini, that, in all the persecutions of the Princess, she had no friend but the old King?—

The Solicitor-General objected to this question. His Learned Friend had no right to assume as fact, the conversation between Mad. Martini and the witness about the conduct of the Princess of Wales. He did assume it as fact, however, by the mode of putting this last question, namely, "Did you not also?"

The LORD-CHANCELLOR observed, that the question might be asked, omitting the word "also," to which the Solicitor-General had just objected. He would here just remark to Mr. Williams, that he was to attend, not only to the shaping and wording of the question, but to the manner and demeanour of them.—(The question was then repeated, so amended.)—I don't recollect it; I have not the least idea of this conversation.

Will the witness now swear that she did not say so? I will not swear it; but I do not believe that I ever said it.

Was not she, the witness, at Morge again, in November, 1818?

The LORD-CHANCELLOR put this question, omitting the word "again," because that assumed a fact which the witness had not yet granted.

I have been several times at Morge; I may have been there in the course of the month; but I do not exactly recollect it. I was there in the end of November, or, perhaps, in the beginning of December.

Did not Madame Martini ask the witness whether the Princess was not much affected at the loss—the death of the Princess Charlotte? I don't recollect such a conversation; I have not the least idea of it, I assure you.

Will the witness swear that Madame Martini did not put that question to her? I cannot positively swear this, but I have not the least idea of it.

Did not the witness say, in answer, "yes," and "that it was very natural, as she had lost every thing in losing her child?"

The LORD-CHANCELLOR apprehended that the question must be put in a different way: "Whether witness did not say"—so and so—leaving out the words "in answer," as the question, as it had been suggested, assumed the fact of the preceding conversation. (The question was so shaped).—I have not the least idea of such a conversation; I don't recollect it at all.

Does the witness, then, believe that this conversation took place with Madame Martini? I believe not.

I wish to ask the witness whether she did not say that it was possible, after the death of the Princess Charlotte, that the Princess of Wales would make some diminution in the expenses of her household?

The LORD-CHANCELLOR.—"Say to whom, Mr. Williams."

Mr. Williams.—To the same person, my Lord, to whom my questions have been referring all along; the same Madame Martini.

(The question was read to the witness, with this explanation.

I have not the least idea of such a conversation, I assure you I don't recollect it at all, I have not the least idea of it.

Will she now swear that it did not take place?—I will not positively swear it, but I have not the least idea of it.

When was the first time that the witness was put on her oath, on the subject of her evidence, and when was it that she first made any deposition in this case.

The LORD-CHANCELLOR.—Has she said any thing in the course of her examination about her being sworn?

Mr. Williams.—Oh, yes, my Lord, doubtless.

Mr. Brougham submitted that this question might be put, independently of the object of this examination.

The LORD-CHANCELLOR.—You said to day that you were calling the witness to speak to her deposition; either, I suppose, with a view to her general evidence, so as to affect it in some way or other, or to disprove particular assertions. If it be for any other object, I must confess I do not see the necessity of going into fresh matter in this stage of the proceeding. If your object be to open such a case, however, (and I do not say that that you may not do so), explain to their Lordships the manner in which you propose to do it; and first of all, as the ground of this question, satisfy the House that the witness has spoken of her being before sworn.

Mr. Williams.—In her evidence, my Lord, she uses the very terms; she says she has been sworn.

The LORD-CHANCELLOR directed that part of her former evidence to be read. It was as follows:—

"Will she swear that she did not say so? I will not swear that I did not say so. It may be I did; but I have not the least idea of it. Before I was put on my oath I never said a word of what passed in the House of her Royal Highness. On the contrary.

Mr. Williams.—I wish to ask when it was that she was put on her oath for the first time?—

The Solicitor-General did not object to this question, provided they (the Queen's counsel) would explain to the witness what the question was, "when she was first put upon her oath?" The question and answer just read ought to be repeated to her; for in a former part of her evidence their Lordships might have observed the distinction which she took between being examined and being sworn.

LORD REDESDALE suggested that her answer to the former question, just read, should be repeated to the witness, and that she should then be asked what she meant by it.

Mr. Brougham.—My Lords, if this is to be the examination of myself, I object to that course.

LORD REDESDALE said, that that objection need not come from counsel, seeing that the present examination was the examination of their Lordships.

The Solicitor-General repeated his objection upon that particular ground.

Mr. Williams.—My Lords, that is the very reason why I object to the objection of the Solicitor-General.

The LORD-CHANCELLOR.—I beg your pardon, Mr. Williams, this examination was meant to be that of their Lordships, not of counsel; and I wish you to look back at your own examination, where you may find that such was the understanding between the House and the counsel.

The Solicitor-General explained that he had interfered only, because he thought that Mr. Brougham had misunderstood the Noble Lord.

Mr. Brougham acknowledged his obligations.

(The part of the evidence which we have last quoted was again read.)

The LORD-CHANCELLOR.—What does the witness mean (in her answer just read) by "before she was put on her oath?"

I mean before I was examined and put on my oath here.

#### Cross-examined by the SOLICITOR-GENERAL.

Before you were examined here, had you been examined any where else? I have been examined at Milan.

Have you ever said any thing about her Royal Highness before you were examined at this place—here at the bar?

(The witness asked if the question applied to, after her having been examined at Milan, or before?)

At any time, before the witness was sworn here, had she ever said any thing about her Royal Highness? I had spoken often of her Royal Highness before I was examined at Milan.

What do you mean by saying, that before you were put on your oath you had never

said any thing as to what passed in the house of her Royal Highness? The meaning of this was, that I had never said any thing of her conduct with the Baron Bergami.

Does the witness mean, that before she was sworn in this place, here, where she is now, she never said any thing any where, as to the conduct of her Royal Highness with the Baron Bergami? I made my deposition at Milan.

I wish to ask the witness, if their Lordships think me entitled to do it, with respect to the particulars of the journey from Rome to Sinigaglia?

The LORD CHANCELLOR was of opinion that in this stage of the business the Solicitor-General could not examine into that matter; the witness being recalled for a particular purpose.

The BARR of LAUDERDALE wished to ask the witness whether she could recollect the day of the month on which she left the service of her Royal Highness at Pesaro? It was in the beginning of November; but I don't recollect the day.

How many days was it before the witness wrote a letter from Milan? I wrote that letter the same day of the evening of my arrival at Milan.

Antecedently to the witness's leaving the Princess at Pesaro, had accounts arrived there of the death of her Royal Highness the Princess Charlotte of Wales? No.

The witness was here directed to withdraw.

Mr. Brougham had to offer a few words to their Lordships previously to the introduction of another witness. Would their Lordships allow another witness to be called, and order that Madame De Mont should remain at the bar during the examination of that individual?

The LORD CHANCELLOR said, this was so unusual, that Mr. Brougham must first inform the house for what purpose he asked the indulgence.

Mr. Brougham.—It may be very likely, my Lords, that when Mad. De Mont sees the next witness, she may give a different sort of answer to the questions which have been put to her.

The Solicitor-General apprehended that his Learned Friend was by no means entitled to ask this of the house. It was they (the Counsel for the bill) who were entitled to demand that a witness on the other side should be confronted by one of their's; but his Learned Friend was not authorized to expect this concession, unless he was entitled to ask every thing which was unusual.

Mr. Brougham observed, that it would be something extraordinary if, in so unusual a case, he applied for usual concessions only. He was willing, however, to waive his request.



**FRANCETTI MARTINI** sworn, and examined by **MR. WILLIAMS**.

Is the witness the wife of Henri Martini? Yes.

Of what place? Of Morge.

Does she keep a milliner's shop there?

Does she know Louise De Mont? Yes.

How long has she known her? From the time that she was at Morge, when she was quite young, and learning to work.

Was that before she went into the service of her Royal Highness the Princess of Wales? A great deal of time before (a laugh); a long time before.

To the best of witness's judgment of what age was Louise De Mont at the time she first became acquainted with her? When I knew her, for the first time, she might be about 16.

Has she frequently seen De Mont at Morge? From the moment I became acquainted with her, I have seen her very often.

I wish to know whether witness remembers seeing De Mont at Morge any time in the year 1818? She was there in the month of April.

In what house did you first see Louise De Mont? In the country house of the Dame Jeorois, where I was called on account of some work.

What work? For whom to be done or made? For Mademoiselle De Mont.

Before this time had you seen any journal of Louise De Mont's? I have read it.

When you saw De Mont on the subject of some work, did you enter into any conversation with her on the subject of the journal, or of the Princess? Yes.

Do you remember asking her any thing about the Princess of Wales, or respecting her conduct? The first time, I spoke to her about her voyage, because I had seen her journal.

I wish to know about the time when you did the work to be taken home to De Mont: You understand me? (The witness expressed her assent).

Did you ask Madame De Mont any question respecting the conduct of the Princess of Wales, or the Princess of Wales generally? Yes.

What questions did you put to De Mont?

The Attorney-General put it to their Lordships, whether, if the object of calling this witness was to affect the credit of De Mont, these questions were likely at all to produce that effect?

The LORD-CHANCELLOR said, there were two ways in which the propriety of this question might be considered: first, whether it was to be received as affecting the credit of De Mont's evidence generally; and secondly, whether, if it was not receivable as affecting that evidence generally, it might be receivable as applying to specific parts. If

you, (addressing the Attorney-General), as counsel for the bill, think it is not receivable in either case, it is your duty to suggest your objection, and your reason for it. I have allowed this course to proceed thus far, and therefore, for myself, imagine it may go on.

The Attorney-General said, if such was the feeling of their Lordships, he must of course bow to it.

Mr. Brougham explained, that they had not put the witness there as an evidence affecting De Mont's credit generally, but to establish a particular contradiction to one or two of her assertions.

The Solicitor-General.—What she said was this—"I never before spoke of the conduct of the Princess with Bergami."

Mr. Williams said, that both the preamble of the Bill, and all the evidence in support of it, imputed immoral conduct as having taken place between the Princess and Bergami. If, therefore, he could prove that De Mont acquitted her Royal Highness of all levity of conduct, her declaration to that effect to another person would be a contradiction of her testimony here. It was in this view that he proposed the evidence of the other witness.

LORD ERSKINE was of opinion that the evidence ought to be admitted. It was, of course, for their Lordships to say, when they came to consider the whole of Madame De Mont's evidence, what value they would attach to it, taking all the circumstances of her declarations together.

The EARL of LAUDERDALE made a few remarks in a tone of voice so low as to be inaudible below the bar.

LORD ERSKINE observed, that, when he considered the talents and learning of his Noble Friend, he was quite astonished at his observation.

The LORD CHANCELLOR observed, that this evidence was tendered on the part of her Majesty, by her Counsel, to contradict the particular statement made by Madame De Mont. As such, he thought it was admissible; and it was, of course, for their Lordships to take into account when they were considering the whole of Madame De Mont's evidence.

The examination of the witness was then resumed by Mr. Williams.

What was the question which you put to Madame De Mont at the time you speak of? I observed to her that the Princess was spoken of as a libertine, as a woman of intrigue; and I said so frankly, that being my opinion from what was heard.

Did she make any and what answer to your observation? Yes; she put herself into a great passion, and said it was nothing but the calumnies invented by her Royal Highness's enemies, in order to ruin her.

Did Madame De Mont say any more?—Yes, she said every thing that was good of the Princess, and that she never observed

any thing about, or of her Royal Highness, except what was good.

Do you remember whether Mademoiselle De Mont said any thing about spies? Yes, she told me that ever since the Princess left England, she had always been surrounded by spies.

Did she say any thing more? Yes.

Sate what? And that every action of the Princess which she did with the best intention was misinterpreted; that the Princess knew very well the fact of her being surrounded by spies; but that she did no action which she was not willing the whole world might know.

Do you remember observing to De Mont, that as she (De Mont) had always been about the person of the Princess, she must have known and observed all her actions?—

The Solicitor-General objected to the terms in which the question was put, and Mr. Williams altered it to the following:—

Do you recollect having made any observations to her relative to what she had an opportunity of knowing respecting the Princess? I only recollect what I have already said: I did ask her if she had ever observed any thing of the Princess.

And what answer did she give you? Her answer was, that she had never observed any thing wrong, and that, further, it was impossible for any person to be more virtuous than the Princess. These were her words.

Do you remember any thing to have been said by De Mont about the late or the old King? Yes; she said, in the conversations which passed, that the old King was the only prop of the Princess—her only support.

You have stated, that on several occasions you have seen Mad. De Mont; do you mean to state that you were well known to each other? Yes.

Do you remember seeing her again in 1818? Yes, I do.

In what month? In the month of November.

Mr. Williams.—My Lords, I shall not pursue this examination further, on the point of the arrival of the intelligence respecting the Princess Charlotte's death, for I do not think Mad. De Mont has given a peremptory contradiction in her answer upon it. I have by this witness given a positive contradiction to parts of her general testimony.

*Cross-examined by the SOLICITOR-GENERAL.*

What makes you remember this conversation taking place in 1818? Because I saw Mad. De Mont's depositions in the public papers, and then I openly showed and expressed my indignation at her having said what she had said to me, before she had made these depositions.

What leads you, I ask, to recollect that this conversation occurred in 1818? Because she employed me at the time in altering a hat or a bonnet, and she took it away on the 22d of April, 1818, as appears by an entry in my day-book.

Was that the year in which your husband fell into embarrassed circumstances;—

Mr. Williams.—I object, my Lords, to this question, on the same ground that many objections have been sustained during these proceedings—namely, that is assuming a fact which is not in proof.

The Solicitor-General.—Did your husband in that year, or in what part of it, fall into embarrassed circumstance? My husband was never, Sir, in embarrassed circumstances.

Do you mean to say that he was never a bankrupt?

"*O mon Dieu!*" exclaimed the witness, turning with great astonishment to the Solicitor-General, "Yes; neither he nor I were ever in embarrassed circumstances."

(The emotion with which the witness delivered the last answer excited much laughter in the House.)

How far is it from Morge to Columbia, where De Mont lived? About a short league.

How many times in the course of that year might you have seen Mademoiselle De Mont? I have seen her several times, but only that once to speak to her.

How many times did you see her in the year 1817? I did not see her except when I have already said.

How long before that period did you see her? I did not see her before; I knew she was in the neighbourhood, but that was the first time I saw her.

Did you ever see her on any occasion before the month of April, 1818? Yes, I have said I had seen her before she entered the service of the Princess, but afterwards I did not see her until the month I have mentioned.

When did you see her before you entered into the service of the Princess? I have seen her several times before, when she came into my shop at Morge.

Did her coming there as you describe originate an acquaintance between you?—Yes.

Can you recollect about what time she first came to your shop to make any purchase? I think it was when she came to Madame Redarde, at Morge, to learn needlework.

How long ago is that? She must have then been about 15 or 16 years of age.

As I know nothing of her age now, I cannot calculate the time; I wish, therefore, to know it from you how long ago? She was then quite young.

I again ask you how many years ago was it? I cannot recollect the precise time; but

I know it was when she was quite young, and learning to make hats, and to do other things.

Was it as much as 5, or 6, or 10 years ago? I cannot really tell. I only know she was then young, and only learning to work.

Do you mean to tell me that you cannot say whether, it was 5 years ago or 10 years ago? Yes, I do not know how long.

Will you swear that you do not know whether it was 8 years ago or 10 years ago? Yes, I cannot swear to it. If Mad. Redarde is written to, she can give that information; I cannot.

Who was present except you and Mad. De Mont when this conversation you speak of took place? The Mademoiselles Jecrois, the two sisters.

Where was it? At their country house near Morge.

What was De Mont doing there then?—She was on a visit.

Do you mean to swear that the two ladies must have heard the conversation between you and Mad. de Mont? Yes, they must have heard almost the whole of it; for they were going in and out alternately while it took place, and they found fault with my making any observations to Mad. De Mont upon the subject.

When were you examined first respecting this conversation? Do you mean by the gentlemen who came to Switzerland?—

Yes. Then it was about 8 weeks ago.

Who were these gentlemen? They were English names: one of them was Carston, or Johnson, and one was Young.

Was the examination in writing? Yes.

Have you a copy? No.

Did they leave you a copy? No.

Did you take a copy of it? No.

Who came over here with you (I mean to this country)? A Mr. Barry.

Was there any body else but Mr. Barry? Yes; I came with my husband.

Your husband? Yes, I would not travel on the public roads without him.

What arrangement did you or your husband make for coming over here? My husband had nothing to do with it.

What arrangement about remuneration?—None; these gentlemen told me we should be indemnified in a just and honest manner by the government of this country.

Was there no particular sum mentioned to you?—As I did not know those two gentlemen, I would not trust to their words, because two years ago, an Englishman, named Addison, occasioned me a loss of fifty louis; on this account they had deposited 100l. at the bankers Messrs. Marietti, as a security for the performance of the promises they had made, and I have the receipt of the bankers for that sum.

Is that sum to be paid to you?—This sum

cannot be paid to me without the orders of those two gentlemen, because it is only placed there as a security for the performance of their promise.

Was there no promise made to you that you should receive this 100l?—No, but for what the Government may grant me as just and reasonable, this money was placed as a guarantee. It was for the performance of the promise made, for those gentlemen said they did not want to buy any witnesses.

Then, do you swear that since you came here, or since you were first spoken to, no promise was made, or hinted to you by any party?—By nobody; I swear it, and I tell the exact truth.

Have you received any money?—I have received 70l. sterling on account, for which I gave a receipt; for I have a suit depending, and it will, or may be, given against me, if I do not return by the 24th of next month; and not knowing how long I might have to remain in London, I did not wish to leave my affairs without some persons to attend to them. The money was only given to me on account.

Besides that money you received, who paid the expences of your journey?—Those gentlemen.

Did you travel post?—Yes, because it was only this day week that we left Geneva; we left it at 4 o'clock in the afternoon.

Besides what you have already received, how much do you expect for coming here?—As my whole dependance is on what this Government may think proper to give, I can't say I expect any fixed sum. Myself and my husband have left our affairs in the hands of strangers. There is one person placed to take care of them, and there are three young women to attend in my shop.

Then you have no expectation of any fixed or precise sum?—I have had no promise made to me; they said to me nothing about it; no fixed promise was made to me about it.

Where do you reside here?—We arrived in town last night at midnight, and they placed us somewhere, I do not know where, but here I am to-day. (*A laugh.*)

*Re-examined by Mr. WILLIAMS.*

Was it before De Mont went to the service of the Princess you saw her at Morge?—Yes, I have seen her several times, as I told you; she came to my shop.

How soon after this conversation with Mesdames Jecrois did you hear of the depositions of De Mont? Oh, you know it yourselves, gentlemen, better than I do. It was on the 22d. of April: the conversation took place eight days before I had the work to do for her.

Had you any conversation with the Demoiselles Jecrois, or either of them, on this subject?

The Solicitor General objected to this question.

Mr. Williams conceived he had a right to put it to her, as a matter of recollection. He did not want to know the subject of the conversation, but the general fact whether she had any.

The LORD CHANCELLOR asked what her conversation with those parties had to do with the present question.

Mr. Williams repeated, that it was not the subject of the conversation he wanted, but the general fact.

The Solicitor General could not see the necessity of the question. It was not pressed.

During these few observations by Counsel, Lord Darnley suggested that the witness should be accommodated with a chair. The Interpreter asked her whether she wished for a chair; to which she eagerly replied, "*oui, je suis bien fatigué.*"

*Examined by the PEERS.*

By the EARL of DARLINGTON (we believe). Is De Mont acquainted with your husband? No.

By the EARL of HARROWBY.—In any conversations you had with De Mont did you ask her any questions respecting the manner in which she was affected by the death of her daughter, the Princess Charlotte of Wales? Yes.

What was her answer? She told me that her Royal Highness was extremely affected, that she shed tears, and said, that she had lost all that was most dear to her in the world.

By another Peer.—According to your knowledge of De Mont, do you consider her to be a person whose word ought to be believed.

The Solicitor General objected to this question, and it was not put.

By the EARL of LAUDERDALE.—Did you collect from the conversation with De Mont, that she was with her Royal Highness at the time she received the account of the death of the Princess Charlotte of Wales? I believe I did not ask her about it; she told me she was on leave of absence, as all the suite were in mourning.

Did she represent herself as having been present at the time the Princess received this account? No.

The witness was then ordered to withdraw.

Mr. Brougham.—My Lord, with reference to what I stated to your Lordships on Saturday, as to the difficulties imposed upon us for the defence by obstacles put in our way—obstacles which, as I then stated, I did not attribute to any want of support on the part of his Majesty's Government; but, my Lords, it does happen that your Lordships' process does not run on the Continent for us, though it does for our adversaries. My

Lords, I say, with reference to that, some correspondence has been placed on your Lordships' table, particularly respecting the non-attendance of the chamberlain, Baron D'Ende. On this there are a few questions which I would wish to put to Mr. Lemon, to clear up what appears a slight discrepancy. I hope, therefore, your Lordships will allow us to have him recalled.

*Mr. LEMON sworn.*

The Solicitor-General observed that this gentleman was in court during the whole of the proceedings.

Mr. Brougham.—No doubt he has during a great part of them; but as clerk to Mr. Vizard, he does come within the description of witnesses who were to be kept out of Court by your Lordships' order. Besides, we do not intend to examine him touching any thing which occurred in court.

The witness was then examined by Mr. Tyndall.

At what time did you arrive at Carlsruhe? On the 13th or 14th of September, early in the morning.

Did you on your arrival inquire for the Baron D'Ende? I did, and was informed that he was at Baden. Upon further inquiry I learned that he was not to be at Carlsruhe till the 17th.

Did you set out for Baden to meet him? I did. I took a coach on Sunday, the 17th, and set off for Baden.

As you were proceeding to Baden, did you meet any person particularly? I did. I saw a coach coming towards Carlsruhe, and enquiring of the footboy, I found that it was the carriage of Baron d'Ende.

What did you then do? I turned my coach round, and overtook the Baron in his.

Did you speak to him? Yes. I asked him whether I had the honour of speaking to the Baron d'Ende, to which he said yes. I then gave him the letter from her Majesty, which he opened and read. He then invited me into his carriage, and took me with him to Carlsruhe.

To what house? To his own.

I believe you had some conversation with him on the road, and at his house? I had.

Had you from that conversation any doubt that you were speaking to the Baron d'Ende? Not the slightest.

How long did he remain at Carlsruhe? He said he had come on some affairs of his own, and would remain till Tuesday. That the minutes to which he found it necessary to refer were at Baden, and that he could not answer some questions that I put to him until he arrived there, and consulted those minutes.

Did you remain at Carlsruhe till Tuesday? No, I went to Darmstadt, and returned on the Tuesday evening following.

When did you next see Baron d'Ende? On the following morning. He took me in his

carriage with him to Baden, and we arrived there that evening.

When you arrived at Baden, what did you do? I took his depositions, he consulting a journal which he kept.

Did he show you any letters from her Majesty to him? He showed me several letters which he had received from her Majesty; some of them were respecting the purchase of a residence.

The Solicitor-General objected to hearing any thing farther as to the contents of those letters.

Mr. Tyndall observed that the contents were not intended to be offered in evidence. The question was put only with a view to show the identity of this person as Baron d'Ende.

#### *Examination Continued.*

Were the letters directed to Baron d'Ende? They were.

How long did you remain with him at Baden? Only that evening. I left it early the next morning.

Before you left Baden, did he state any thing to you on the subject of his coming to England? Yes; he said that, as the information he was to give was to be given in his official capacity, it was considered by his friends that he ought not to come without the consent of the Grand Duke.

Was the Grand Duke absent from Baden? Yes, he was absent from Baden at the time.

Was he at Carlsruhe? He was not at either place then. I understood he was absent on a tour.

Did you learn from the Baron d'Ende when the Grand Duke would return?

The Attorney-General objected to this question, as to what the Baron d'Ende told the witness of the Grand Duke's return.

Mr. Tyndall maintained that the question was a proper one.

The EARL of LIVERPOOL thought that, as the documents respecting the circumstance were before the House, the question might be allowed.

The Solicitor-General submitted that those documents were not evidence.

The question was again put thus:—Did you learn from Baron D'Ende when the Grand Duke would return? He (the Baron) said he would return on the 20th, and that he would then ask permission to come.

Do you know whether he asked it? He came to me on the 23d (we think) with her Majesty's letter in his hand, and told me he was going to the palace to ask permission to come to England. I went to the door with him, and saw him going towards the palace; in about half an hour I saw him again and he said he had bad news for me, as he had been refused permission to come to England.

Did he afterwards take you to his house? He did; he appeared much agitated, and said he regretted much that he was not permitted to go. He caught hold of my hand, and placing it to his heart, said, "Feel how my heart beats." (*A laugh.*)

Did you after that make any other application to him? In about an hour or two after this, I went to call on him; but lest I should not find him at home, I wrote a letter (a copy of which I have) to leave for him. I called at his house, and not finding him, I left the letter.

Did you receive any answer to that letter? I did.

Was it written, or verbal? It was a verbal answer. It was sent by a Lieutenant of the life-guards of the Grand Duke.

Do you recollect his name? Yes, his name was Schweitver.

What was the answer? The Baron sent word that he would not make any depositions without the consent of the Grand Duke; and he declined sending a written answer to her Majesty.

By the EARL of LIVERPOOL.—After you had prevailed upon the Baron to ask permission of the Grand Duke to come to England, had you any reason to think that it was not of importance that he should come.

The MARQUIS of LANDSDOWN said he was in doubt whether this question could be asked, as it might lead to a statement of confidential matters by this agent.

The EARL of LIVERPOOL said he would withdraw the question if it were objectionable.

Mr. Brougham did not mean to object to the witness's answering the question: the only objection would be as to the novelty of the thing; but the present case was one of novelties altogether, from beginning to end.

The EARL of LIVERPOOL said, he would not press the question, nor would he have asked it, but he thought that a similar one had been already asked, and was allowed to be answered.

Mr. Brougham thought that there was a better way of arriving at the information by examining Mr. Vizard himself, who was now in attendance. In the practice of the courts below, an affidavit from the agent would be considered sufficient to show whether a witness was thought material or not, and Mr. Vizard was now ready to swear that the testimony of Baron d'Ende was considered of the highest importance. He (Mr. Brougham) himself was willing to be sworn as to what he considered the importance of Baron d'Ende's evidence.

The LORD - CHANCELLOR observed, that the impression of the attorney himself was not matter of legal evidence; the question was, as to the opinion entertained by her Majesty of the materiality of such evidence.



And against whom was this monstrous novelty directed? Against one entitled to every advantage, upon every principle of law, where the balance was supposed even between the prosecutor and defendant? But it was now apprehended that a favourite agent had got into danger; and though it was obvious that his case must be disposed of ultimately after the present proceedings were brought to a termination, it was asserted on the other side that they were taken by surprise. He would not then stop to argue that point, but contend that it was utterly new, that it had never before been heard of in any court of judicature, that the prosecutor should have a liberty of suspending an inquiry, in order thereby to be enabled to mend his case, or to defend his agent. If, indeed, he should argue the point to which he alluded, he believed that every principle of English law might be quoted in his favour. But it was in fact not true that they were taken by surprise on the other side. In his opening speech, they who had done him the honour to attend to it must remember, that though he charged no conspiracy directly—although he abstained as much as possible from the use of the odious word, and although he had treated the conduct of the agents at Milan as conduct which merely went to damage the Queen's cause, and had tendered evidence with a view only to that proposition, he had at the same time added, that these persons, without applying any fresh epithets to them, had acted in that way which conspirators and plotters would certainly have adopted, and without which they could not have carried their measures into effect. Could any man in his senses believe, for one instant, that the getters up of this prosecution expected to steer through their whole case without one attack being made upon Browne or others? On the answer of every honest mind to this question he would rest his objection to this last and hitherto unheard of application. They on the other side were, he repeated it, not taken by surprise. Their object was to rebut Pomarti's evidence; but had not their Lordships themselves observed what took place the moment Pomarti's name was mentioned? Had they not seen how his Learned Friends on the other side instantly drew forth from their bags a brief dictated to the use of Pomarti. These innocent gentlemen, the agents of yet more innocent persons, no sooner heard the name of Pomarti announced, than they found in their repositories something that suited him exactly. How were they qualified to cross-examine Pomarti as they had done, except by the information which they had received from Milan? Would their Lordships believe that these simple, innocent persons, knew nothing of a certain process which had been carried on at Milan, and in which damages were sought against Villamarcini for the part he

had taken in a conspiracy? They were, in fact, in possession of all the evidence which they could derive from Col. Browne in person; but whether they had or not, was not material to the question in the view he took of it. If the cross-examination were referred to, it would be seen that many questions were put on points that must have been supplied by Col. Browne, and which clearly indicated that Browne was previously aware of the effect of Pomarti's evidence. His Learned Friends—he ought to say their employers—never had the audacity to intimate that Col. Browne was not a party to the whole of these proceedings. They would scarcely say that he had not received due notice, or that he had not been furnished with a list of witnesses. He and his friends who acted with him on her Majesty's behalf had felt all along the possibility of such an application as that now made. But would their Lordships stop short? Would they suspend her Majesty in that state of irritation, or rather disease, such as he never before saw afflicting a human creature; would they, when they turned their eyes to that situation in which the illustrious victim had been so long detained, would they then heap a new wrong upon her head, by departing not only from all the ordinary rules of courts of justice, but from rules laid down by themselves in this very process? Would they, by a proceeding at once wild, lawless, and in short, unknown, plunge into irregularity for the first time? Such a proceeding would be strange to all our courts, and strange to all our lawyers; and the more strange, that it should be adopted at such a period of the inquiry, that evidence should be tendered at such a moment, to mend a cause rotten in itself originally, and utterly destroyed by the defence. This, indeed, would be to combine oppression, wrong, and irregularity, for the purpose of needless, and gratuitous, and shameless cruelty.

Mr. Denman followed on the same side, and observed that he should consider himself as deserting his duty if he did not contend, before their Lordships, that the concession asked for on the other side was without principle or any example. What, he would ask, was the ground on which this before unheard-of application was made? The ground was simply that Colonel Browne was not in England, but at Milan. But the counsel for her Majesty complained of this very fact. They contended that Colonel Browne ought to be in England—that he ought to be here to explain his conduct, and to defend his practices. But, because he was not here, was the case of the Queen to be injured? Was her situation, on that account, to be rendered worse? It was, perhaps, the most anomalous point in this most anomalous proceeding that her Majesty was ignorant of the mode by which she had

been brought to trial. She knew not whether the charges proceeded from the Milan commission alone, or had been issued under the sanction of the Court of Hanover. Their origin was, however, only to be looked for amongst the proceedings of the Milan commission, or in the archives of Hanoverian justice. Either from the Milan commission, or from the court of Hanover, these proceedings emanated; and it would be most shameful, when the case for the defence had been brought to a conclusion, if the evidence of persons sent out from England on this commission—evidence that had not before been tendered—were to be admitted, in order to make out a new case. The courts of justice below had been much talked of; but they ought to blush, and hide their heads, when those courts were mentioned. What individual had ever been cited before those courts, who was ignorant of the proceedings which had led to his trial? He must know his prosecutor; he must know that depositions against him had been taken before a magistrate; and he must also know that evidence was adduced before a grand jury, sufficiently strong to justify them in finding a bill of indictment. But here not one of those preliminary steps had been observed. Therefore, so far from Colonel Browne's absence being a good reason for granting the extraordinary indulgence that was required, it was, in fact, a reason for the further condemnation of the course that had been pursued. Colonel Browne ought undoubtedly to have been here, at all events, as a Milan commissioner, in the first instance, if he were not required as a witness in the second. But Colonel Browne's character was to be cleared! Yes, the character of every body was to be purified, except of the Queen of England. He (Mr. Denman) had not condemned the Milan commission—he had said nothing about it. Still, however, he did not know but that he might have to charge every one of those three commissioners with the grossest and the most infamous misconduct. He did not mean to say that he would do so; he did not mean to assert that he had evidence of that nature, but he would contend that, if he had such evidence, he possessed the right of bringing it forward. But, when he stated this, he was met by a thousand panegyrics, not only on these gentlemen, but on the character of Mr. This and of Mr. That—in short, on the character of all those who were concerned. He was stopped at the threshold of this part of his defence by panegyrics on some persons who were known to have been employed, as well as by eulogies drawn up in blank for any person whom circumstances might bring into notice. He complained of the absence of Colonel Browne, who ought to have been in country; he complained of the pretence on which this additional delay was now called

for—called for, he would say, with no more regard for her Majesty, than if she were the inanimate subject of a chymical experiment. It was false to say that the Counsel on the other side did not know that witnesses were to be called with respect to the Milan Commission—it was false to say, that no expectation was entertained of their conduct being inquired into. From the commencement of the proceeding, inquiries had been made as to the conduct of Vilmarcati and Col. Browne—inquiries had been constantly directed to the witnesses, in order to discover whether they had been tampered with. Questions relative to that fact were put to Majorchi, and to every other witness. How then could it be said that nothing had been done which could lead to the inference that the conduct of the Commissioners would not be considered? It was quite clear that a contrary inference must have been drawn from all that had occurred. If this were the fact, why was not Colonel Browne present? The same ship that brought over Pomarti, whose statements must be fresh in the minds of their Lordships, might have carried over Colonel Browne himself, who ought at that moment to be present at their bar. He would not condemn Colonel Browne unheard; but he would not condemn the Queen, on account of his absence, to a further protraction of her most painful situation. In any case it would be a most unjust proceeding; but it was still worse in a case where female character and female feeling were so deeply affected. If delay were now granted, he must consider that delay to be indefinite. What was there in the proceeding that justified his Learned Friends in asking for this indulgence? This was a divorce bill—a bill also of Pains and Penalties. As a divorce bill it was originally defended and attacked. But the next day after that defence and attack, they were told, by authority which could not perhaps be contradicted, that the divorce clause was not an important part of the bill. Some supposed that that portion of the bill was to be given up, and that their Lordships had nothing to do but to inflict the pain and penalty of expressing an unfavourable opinion on the conduct of this illustrious lady, without following up the proceeding any further. Supposing it to be so, still their Lordships must arrive at their conclusion by considering how the evidence bore on the facts stated in the preamble of the bill; on that, and on that alone, could they decide. He denied that the indulgence now called for was necessary to that decision. If such an indulgence were granted, it must necessarily be reciprocal, and thus there would be no end to those proceedings. And when he heard what was going on around him in the world, he did not doubt but that the delay was called for with that very view by some of those persons with whom his Learned Friends were in communication.

If Colonel Browne were allowed to be examined, every witness whose conduct was called in question, every individual whose name was mentioned in the course of these proceedings, would have a right to be heard in exculpation. Their Lordships would have to send every three weeks to Milan, to see how far the testimony of those persons could be shaken, or on what points it could be confirmed; and this unwieldy process, almost too unwieldy for the frame of man to bear, and almost too intricate for the mind of man to comprehend, would never be brought to a termination. They had been told that, though her Majesty would be allowed no list of witnesses—though no specification of time or place would be afforded her—though no particular offence would be pointed out to her—still she should not suffer by this proceeding, because she should be allowed almost her own time to bring forward her defence, and to conclude it. That time had now come. The circumstances of her Majesty's defence had been developed, as far as it was in the power of her Majesty's counsel to lay them before their Lordships; and they, in the exercise of their discretion, thought they had a right now to bring that defence to a close. Were they, then, at this moment, to be again deluded and deceived? Three years ago the Milan commission was sitting; and, instead of stating that her Majesty's counsel could in the opening of the defence have adverted to the evidence of Pomarti, it would have been better if his Learned Friends had inquired whether Pomarti was in the country when that opening was made. It was competent for them to have done so; and, had they adopted that natural course, they would have found that the fact was not so. They would have learned that Pomarti had not arrived in time to enable his Learned Friend, Mr. Brougham, to have made such a statement. But looking, to every other part of his Learned Friend's opening, it was quite clear that the conduct of the Milan commission was intimately concerned with this proceeding; it was most evident that its character would be frequently referred to; and, if his Learned Friends were not ready to defend the conduct of the Commissioners, was the Queen to be subject to the excruciating torture of a still longer delay? The question was, as his Learned Friend had stated it, "Are you, or are you not, an English Court of Justice?" If they were so, let any instance be pointed out in an English Court of Justice, where the defence made against a prosecution was assigned as a reason for delaying the decision. It was fit that their Lordships should look a little to the mode in which this case had been conducted. When he and his Learned Friends proceeded with the defence, they asked for no indulgence; they demanded, as a matter of right, to state those facts, the introduction of which

was made the foundation of the proposition for delay. If they had no right to do so, why had they not been stopped? Surely they ought then to have been told, by the other side, "You must now make your election, and proceed as you think proper, either to call those witnesses, or to abstain from doing so; but we now apprise you, that if you intend to call them, a longer time will be required, in order to enable us to contradict their evidence." They ought to have been told that such an election would be admitted. They were not, however, asked to make any such election—no such notice was given to them; but they were now taken entirely by surprise, as they had before been by the application relative to the fictitious witnesses from Lugano, about whom they heard not a word until the application for delay was made. Without having previously uttered a word relative to those supposed witnesses, the Counsel for the Bill were allowed all the credit of having summoned them, and of being deprived of their evidence merely by adverse circumstances. This was a fair subject of complaint, because her Majesty's Counsel could not have calculated on such an application; neither could they, in the present instance, have contemplated that a delay would be demanded. He relied on what they had frequently heard declared by their Lordships, namely, that they were in a court of justice; and he called for equal and impartial justice. From the beginning, her Majesty's Counsel had no such indulgence granted to them, and he hoped that it would be refused to the other side. In the first instance the Queen desired that the whole proceeding should be delayed till all the evidence was collected, for the purpose of at once bringing the case to a conclusion, as it were in an ordinary court of justice. That was, however, denied.—The prosecution was then allowed to go on; the charge was completed, and time was given for the defence. Good God! would their Lordships now after the prosecution was completed in all its parts—after the case had been opened in the strongest terms by the Attorney-General—after evidence had been heard in support of the charges—after the Solicitor-General had summed up with all his ingenuity—after that summing up had been laid before their Lordships and before the country, unanswered, for some time—would they now, after all this, grant a further delay? All the consolation they had, when the proceedings for the prosecution were closed, was derived from the statement, that, if her Majesty's counsel could prove the charges which were then sent forth to the country, to be infamous slanders, they could have nothing to fear from their Lordships at the termination of the case. Her Majesty's counsel had demonstrated by evidence, they had demonstrated by arguments, they had

satisfied the country, they had satisfied all posterity, that her Majesty had been foully and falsely accused; and he now called on on their Lordships to pronounce a verdict of acquittal.

The Attorney-General, after the experience he had had in the course of this proceeding, did not feel the least surprise at any mis-statement or misrepresentation that might be made by the Learned Counsel at the other end of the bar. He was now accused with making an application before unheard of in a court of justice—one not only unsuited to forward the ends of justice at their Lordships' bar; but an application of such a nature as was unthought of in any judicial court. They were again assailed, for the 20th time, with a representation of the hardship of her Majesty's situation with respect to the present defence. But he would maintain that, so far from there being any hardship imposed on her Majesty, she had enjoyed very great advantages. It was true she was furnished with no list of witnesses, with no specification of places or times, but she was allowed that which was of much more importance. The witnesses in support of the bill had been examined at their Lordships' bar, and then her Majesty was allowed all the time that was deemed necessary to prepare for her defence. Yet they were told, with this fact, fresh in their remembrance, that her Majesty came to her defence under the most serious hardships and disadvantages. He submitted that the contrary was the case. The witnesses were produced against her, every fact was substantiated by proof, and full time was allowed to enable her Majesty to answer the case. What had he (the Attorney-General) to complain of on this occasion? Not only that her Majesty's counsel had not opened the case they intended to prove, but that they had denied circumstances to which they had adverted. His Learned Friend (Mr. Brougham) said, that the word conspiracy, with reference to the Milan commission, had never dropped from his mouth: and his Learned Friend (Mr. Denman) declared that he had never said a word about the Milan commission at all. But, though they might originally have said nothing about a conspiracy, yet their Lordships would recollect that, after the examination of Flynn and Hownam, his Learned Friends took another course. They then went into that collateral inquiry relative to the subornation of witnesses in support of this Bill. They did much more: having failed to prove that any witness had been suborned, they set up another case—that a conspiracy existed for the purpose of suborning other witnesses, and by that means they endeavoured to let in fresh evidence. They endeavoured, from that evidence, to infer, that though the witnesses who had been called were not suborned, still that a

conspiracy did exist with respect to persons who had not been produced at their bar. He had objected (and in that objection he was borne out by the opinion of the Learned judges) that such evidence could not be received. Their Lordships would however recollect, that evidence of this description was allowable to be called, he himself not being very anxious to prevent it, although as a lawyer he could not comprehend its propriety. When, in consequence, this inquiry was entered into, he laid his claim before their Lordships, that if evidence of any conspiracy was given at their bar, he should be allowed time to bring forward counter evidence; and his Learned Friends should in candour have said that they did mean to pursue such a course—that they would abandon the facts alleged against the Queen, and go into this collateral inquiry. He should then have stated that there was no ground for going into such evidence, and that if his Learned Friends did so, he must be allowed an opportunity of contradicting at the bar the matters so sworn to. His Learned Friends accused him with desiring their Lordships to abandon the case of the Queen, and to go into evidence respecting the conduct of Colonel Browne. That was not the fact; but when an attempt was made to show that Colonel Browne had acted corruptly on this occasion, he conceived that he ought to be called to deny the statement. His Learned Friends could not fairly argue that they had been taken by surprise; when they introduced such evidence as they had thought proper to do, they must have known that an effort would be made to disprove it. His Learned Friend, Mr. Brougham, had said that he never used the word conspiracy with respect to the Milan commission; and his Learned Friend, Mr. Denman, observed that he never said a word respecting that commission, but that he would, one by one, charge the commissioners with the grossest and most infamous conduct.

Mr. Denman begged pardon of his learned friend. He did not assert that he would so charge the commissioners; but that he might do so, if it were necessary for his case to produce such evidence.

The Attorney-General.—Well, then, had his learned friends done with that part of the subject, or did they mean to call more evidence, and enter into a new case? He asked for the opportunity of calling Colonel Browne to the bar, in order to contradict that portion of the evidence related to him. He did so, because up to the period when Maino and Pomarti were examined, no man could have imagined that such a course of inquiry would have been entered on. His learned friends should have previously stated what they meant to do. But, in the statement of his learned friend, Mr. Brougham, and in the more detailed statement of Mr.



Williams, not a word was said as to the line which was afterwards pursued by them. Therefore, he maintained, he was not making an unheard-of application; an application unknown to courts of justice, when he asked for time to enable him to bring forward evidence on this new point. Mr. Denman had insinuated that he was instructed to make this application by some persons who wished to protract these proceedings. He (the Attorney-General) knew not whether his word would be taken by their Lordships; his learned friend would, perhaps, doubt it; but, in defence of his character, he must state that this application was made after due consideration and serious consultation with those who were better enabled to give a sound opinion than he was—he meant his learned friends who then sat around him. His learned friend had also stated, what he must take the liberty of saying ought to have been supported by better authority before he had asserted it, that he (the Attorney-General) had formerly made an application for delay, founded upon a representation relative to fictitious witnesses, said to be expected from Lugano. He would be unfit to appear at their Lordship's bar, or any where else, if he could have acted in that manner. Their own witness, Teuille, had stated that he met a man of the name of Rossi at Paris, who was on his way from Lugano to this country; and yet his learned friend had insinuated that he (the Attorney-General) had the wickedness, to apply to their Lordships for delay, on account of witnesses who did not exist. His learned friend knew as well as he did, that, though not ready to appear at their Lordship's bar, some of those witnesses who had been stopped were now in this country. But to inflame their Lordship's passions or the passions of others those groundless insinuations were resorted to. He would not, however, permit his character to suffer on this occasion by statements of such a nature. No man ought to be tolerated in society who would endeavour to play so base a trick upon their Lordships. His Learned Friends, in speaking of what they termed this unheard-of application, seemed to think that he wished to change their Lordships from a court of justice to some other tribunal where there was no justice. He would however say, that in justice not only to Colonel Browne, but in justice to all the parties concerned, an opportunity should be given to him to contradict Maino and Pomarti, by placing the Colonel at their Lordships' bar. The counsel for the Bill had no right to expect from any thing that had been dropped by his Learned Friends, Mr. Brougham and Mr. Williams, or from any thing that had been hinted at by them, that evidence affecting Col. Browne would have been adduced. His Learned Friend, Mr. Brougham, had, with his usual

ingenuity, commented on the evidence given at the bar, and on the way in which it had been brought into this country; but he had said nothing of a conspiracy, nor had he noticed any misconduct on the part of the Milan commission. Therefore he was justified in stating that it was a surprise on him and on their Lordships when his Learned Friend pursued the course of examination he had recently done. If it were not material to the Queen's case why was such evidence introduced? If it were material, and it was introduced without previous notice, he asked not their Lordships' indulgence, but he demanded the exercise of their justice, in allowing him to call witnesses to the bar to rebut that part of the case so introduced. He had no wish whatsoever but to do strict justice in the performance of the duty that had been imposed on him by their Lordships. He had no other wish but that these proceedings should terminate as soon as possible, consistently with the principles of justice. His duty he would perform, without regard to any calumnies or insinuations that might be cast on him by his Learned Friends at the other end of the bar, or by any other individuals. He would, at whatsoever hazard it might be, do that which he conceived to be just and legal. It was his conviction that he ought to make this application, and it was for their Lordships to deal with it as they pleased. He trusted their Lordships would not be directed by any thing that might be said on this subject either there or elsewhere, but that they would, as he was sure it was their intention, consult only the best mode of obtaining substantial justice in deciding on the case then pending before them.

The LORD-CHANCELLOR said they had now arrived at a most important stage; of these proceedings; and if no particular circumstances had arisen, he took it for granted that they would now have gone on in the regular and ordinary course. The Attorney-General, he conceived, acted perfectly right in making the proposal, and her Majesty's counsel were equally justified in opposing it. In his opinion witnesses of the description alluded to might be called, under the limitations and restrictions which must always apply to testimony so introduced at their bar. He owned that the subject came somewhat hastily before him; but unless he very much forgot what had previously occurred, many of those among their Lordships who thought fit to allow the evidence to be produced which had been given towards the close of the proceeding, argued for the admission of that testimony on the express supposition that time would be given for the appearance of Colonel Browne. He felt bound to state that, as one of the grounds for the motion he intended to submit. If the Attorney General had been justified in requiring delay, the other side had been equal-



ly warranted in resisting it; but whether the application should or should not be granted remained for the House to determine. The application had been made upon two grounds, and he (the Lord Chancellor) begged to preface the statement of them by observing, that in the course of the argument just concluded many topics, had been urged to which at this moment it would not be proper for him to refer, but which must be most gravely discussed and considered by their Lordships hereafter. The two grounds were—first, the charge against the character of Colonel Browne; and, secondly, with reference to the bearing of his evidence on this inquiry. The House was able to appreciate in what way and to what degree the character of Col. Browne was implicated: but, with regard to the second ground, and what was supposed to belong or not to belong to the proceedings of courts of justice, it must be remarked that there was always this difference between the proceedings of Parliament and of the ordinary courts of justice—that, in the latter, a trial must be continued from day to day. This practice had been introduced only of late, and nothing but the absolute necessity of the thing could justify it; but he could not call to mind a single instance of a postponement of the nature now proposed. On the other hand, from the nature and constitution of Parliament, it was, he apprehended, a very usual thing to adjourn, where a case to justify it was previously made out. No man who could suffer his reason to be addressed through his head to his heart would be satisfied, unless that necessity were fully established. Under these impressions he took the liberty of assuring their Lordships that he was not, without an interval, able on this subject to arrive at a satisfactory conclusion. Only about 30 minutes yet remained before the arrival of the hour of adjournment: and as he was anxious and desirous to impose upon himself the task of looking accurately and attentively at every part of the evidence on the minutes, for the purpose of forming an opinion, whether consistently, not with the technical forms of justice, but with its substantial rules, this delay ought to be conceded, he wished much to be allowed to devote this evening to that investigation, that he might be able to-morrow morning to submit to the house his deliberate judgment upon the point now before it. His Lordship, therefore, humbly requested their Lordships to permit him to defer his motion until to-morrow morning.—*(Hear.)*

EARL GREY agreed that the delay until the next meeting of the house was desirable for the satisfaction of all parties, that not only the Noble and Learned Lord, but other Peers might, in the interval, weigh well the grounds on which the application was made.

To one point he wished to address a few words, viz., the statement of the Noble and Learned Lord that a sort of admission had been made by the house generally that some delay might be necessary after the conclusion of the case for the Queen, in order to enable the other side to bring forward witnesses in contradiction. He (Earl Grey) recollected making no such admission, for neither then nor at any time since had a further postponement for such a purpose entered into his contemplation. He was only desirous of stating further, that when the House came to the consideration of the subject, it would be worth while to reflect whether, if delay were to be granted, it should be granted now or after the Attorney-General should have called the witnesses in contradiction, with which he was already furnished: because, if time were now given for the production of Colonel Browne from Milan, it was easy to see that it might be used for the purpose of obtaining new evidence, and getting up, as it were, a new case against the Queen's witnesses, not at present in the view of the Attorney-General. *(Hear, hear.)*

The House then adjourned at half-past three o'clock.

**AN ACCOUNT OF THE TOTAL EXPENCES INCURRED ON ACCOUNT OF THE PROCEEDINGS CARRYING ON AGAINST THE QUEEN, AS FAR AS THE SAME CAN BE MADE OUT:—**

The total sum applied out of the Secret-Service Money, from the commencement of the proceedings ..... £18,100 15 0

The total sum issued to Mr. Maule, the Solicitor of the Treasury, out of the grant of Parliament for Civil Contingencies, for the expense of those proceedings, is ..... 16,000 0 0

The total sum issued to Mr. Vizard, her Majesty's Solicitor, out of the grant of Parliament, for satisfying certain charges upon the Consolidated Fund, or Civil List, for the expense of those proceedings, is ..... 20,000 0 0

**54,100 15 0**

N. B. The Counsel for the Queen know, that in conformity to their application on the 9th Oct. 1820, a warrant for the issue of 10,000*l.* is ready to be delivered to them; and this sum, together with the preceding sums will make the whole issued for her Majesty's service, amount to ..... £30,000 0 0

A further sum of 10,000l. has been applied for by Mr. Maule; which, with the preceding sum of 16,000l. will make ..... 26,000 0 0

The above sum of 18,100l. 15s. does not include the expense of couriers between Italy and London, which was defrayed in the usual manner.

S. R. LUSHINGTON.

Whitehall, Treasury-chambers,  
Oct. 17.

*(We gave, a few pages back, the substance of the Report of the Secret Committee as heard below the Bar. We now give the same Report in its authentic form, with the extracts from the Letters.)*

## REPORT OF THE SECRET COMMITTEE

APPOINTED TO EXAMINE AND VERIFY EXTRACTS FROM THE CORRESPONDENCE BETWEEN COL. BROWNE AND J. A. POWELL, ESQ. RELATIVE TO THE MISSION OF GIUSEPPE RASTELLI TO MILAN, AND HIS DETENTION THERE.

By the Lords Committees appointed a Secret Committee, with powers to examine John Allan Powell, Esq. as to the extracts from such parts of his correspondence with Colonel Browne as relate to the mission of Giuseppe Rastelli to Milan, and of his detention there, and to verify them by a comparison with the original letters, and to report; and to whom were referred certain papers (sealed up) delivered in at the bar of the House by John Allan Powell, Esq. pursuant to the order of the 20th of October 1820.

Ordered to report,

That the Committee have met, and, in the discharge of the duty imposed upon them by the House, have called before them John Allan Powell, Esq., who being examined, stated that the extracts which he presented at the bar of the house contained the whole of what has passed in the correspondence between him and Colonel Browne, respecting the causes of the mission of Giuseppe

Rastelli to Milan, on the 14th. of September last, and of his detention there.

The Committee then proceeded to examine and to verify these extracts; and upon comparing them with the parts exhibited to them of the drafts of Mr. Powell's letters to Colonel Browne, and of the original letters of Colonel Browne, find that they have been made faithfully and correctly.

These extracts may be classed under two heads:—First, those containing the communications made by Colonel Browne to Mr. Powell, and received by the latter before the 14th. of September last, when Rastelli was despatched to Milan: Secondly, the extracts from the letters which have passed between Colonel Browne and Mr. Powell at the time of Rastelli's departure from this country, and subsequently thereto.

From the first of these it appears to the committee, that as early as the 4th of July, 1820, a letter was written by Colonel Browne to Mr. Powell, and received, as the latter supposes, about the 12th of the same month, though he cannot now ascertain the precise date of its arrival, in which Colonel Browne states the excessive alarm prevailing in Italy, in consequence of the dissemination of false reports respecting the mal-treatment and even the murder of some of the witnesses then in England, and strongly urges the necessity of procuring letters from them to counteract such reports, and of sending them by a courier.

Communications of a similar nature, stating the mischievous effects of the reports in circulation, and of the use made of them to deter other witnesses from coming to England appear to have been made by Colonel Browne to Mr. Powell, on the 10th, 18th, and 24th of the same month, and also on the 4th of August, on which day he represents the alarm of the families of the witnesses then in England to have been greatly increased by the non-arrival of any letters, and expresses his hope that letters from them will be speedily received.

It also appears that on the 9th, 15th, 17th, 22d, 25th, 28th, and 29th of August, and on the 2d of September, similar representations were repeated in the letters of Col. Browne, and received by Mr. Powell prior to the 14th of September, the date of Rastelli's mission to Milan, in several of which the necessity of sending a courier with letters from the witnesses is again strongly insisted on.

In these communications the strongest statements are made of the mischievous impression produced by the news of the attack upon Rastelli's party at Dover, by the representation of the riot there as a massacre; by the report of the loss of an eye by Rastelli himself, and of the murder of Sacchini; and by the return of Rossi and the Lugano witnesses, in consequence of these reports. The

terror of the families of other witnesses, who were said to have lost their lives, is represented to have been extreme; and Colonel Browne states all these circumstances as having deterred witnesses, by fears for their personal safety, from coming to England, "who were before ready and willing, and going off with all the expedition possible."

The Committee have confined themselves to the general statement of the substance of the various representations thus made by Colonel Browne, to Mr. Powell, of the reports circulated in Italy, and of their effect in deterring other witnesses from coming to this country, which Mr. Powell states as his inducement to select Rastelli as the fittest courier to carry despatches to Milan on the 14th of September, but have not thought it right to report the extracts themselves, as they contain statements which in that form could not be received as legal evidence of the circumstances to which they refer, but which, if produced, might affect the important inquiry in which the House is now engaged.

The same reason does not apply to the second head of extracts from the letters of Mr. Powell to Colonel Browne, which were sent by Rastelli, or written subsequently to his departure from England, and from Col. Browne's answers thereto. The Committee have therefore thought it their duty, without comment or opinion, which they do not understand themselves as being required to offer, to subjoin those extracts in  *toto* , as they had been delivered to them, for the information of the House.

#### EXTRACTS FROM THE DRAFTS OF LETTERS FROM MR. POWELL TO COL. BROWNE.

##### No. 1.

"Lincoln's Inn, 13th September, 1820.

"I now return you Rastelli, as I conceive he may be of use to you; but you must take care to let us have him here again on or before the 3d of October, with all the information, evidence, and witnesses you possibly can collect."

Extracts from another part of the same letter, at an interval of several pages.

"I am aware that it may be a difficult task, under the circumstances which have taken place, to induce persons to trust themselves here; but we rely upon your utmost exertions to accomplish this important measure, and trust you may succeed."

##### No. 2.

"Lincoln's Inn, 14th September, 1820.

"I have little to add to my letter of yesterday, except to return you the papers to be proved, if possible, in the way that will be pointed out by ———, and some of which I have marked in pencil; they must all be re-

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turned to me, done or not done, by the 1st of October. Rastelli takes back with him letters from every body; be sure to forward them, and get as many answers as you can."

##### No. 3.

"Lincoln's Inn, 28th September, 1820.

"I hope we shall in two or three days see Rastelli again, with the papers I returned to you by him, and other witnesses, who may be a counterpoise to those to be called by them."

#### EXTRACTS OF LETTERS FROM COL. BROWNE TO MR. POWELL.

##### No. 4. (Received the 28th of September.)

"Milan, 21st September.

"Just as the courier was starting Rastelli arrived. Every attention shall be paid to the letters brought by him."

##### No. 5. (Received 4th October.)

"Milan, 27th September, 1820.

"Rastelli will take back with him and two new witnesses, referred to in letter. I much fear Rastelli is shuffling. He is in bed, and says he has a fever from crossing the water, and he is heartily sick of the manner in which the witnesses are confined in England. I wish he had not been sent back at such a moment, as it will, I am sure, be difficult to move him again. I shall press him the moment he leaves his bed."

##### No. 6. (Mr. Powell believes, received the 7th of October.)

"1st October, 1820.

"Rastelli is still in bed with a violent fever."

##### No. 7. (Received the 7th October.)

"2nd October, 1820.

"——— and Rastelli continue ill in their beds."

##### No. 8. (Received the 7th of October, as Mr. Powell believes.)

2nd October, 1820.

"Rastelli is also on his pillow, and has been bled twice yesterday. He has a serious fever; and, as I hear, he attributes it to having vomited blood on the passage over the water. I expect very great difficulty in getting him back to London."

#### EXTRACTS OF LETTERS FROM MR. POWELL TO COL. BROWNE.

##### No. 9.

"Lincoln's Inn, Oct. 8, 1820.

"We are exceedingly sorry to find that you have any doubt of the willingness of

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Rastelli to return. He would most certainly not have been sent to you, had there been the least reason to suppose he would not most readily have come back, and had we not conceived that he might be of great use to you at Milan, as he himself stated he thought he could, and that he should be very well able to return here by the 3d. As it is, we consider it of the greatest moment that he should come back; and I have it expressly in command from the Attorney-General to say to you, that no means must be left untried to make him do so. His absence would prejudice the cause exceedingly, as it would be immediately construed into a fear of his re-appearing, and the most injurious, however untrue, inferences would be drawn from it. The return of this man is so much desired, that we send Kraus expressly to you to inform you of it, and to enforce it in the strongest manner."

No. 19. (Received since the examination of Mr. Powell at the Bar of the House.)

"Milan, 4th. October, 1820.

"I have not seen Rastelli, except the day of his arrival and the day after; he continues in his bed seriously ill. It would appear to be a severe attack of the jaundice; I shall urge him out of his bed, as soon as possible, and endeavour to persuade him to return, but he cannot for three weeks to come; and his horror for the sea is such, that it will be a tremendous task to induce him to cross it again.

"On ———'s suggestion O—— is to visit Rastelli, see him in his bed, and in the presence of his doctor, who will sign a certificate in O——'s presence of the danger which would attend his removal."

### House of Lords,

TUESDAY, OCTOBER 24, 1820.

The LORD CHANCELLOR took his seat before ten o'clock, and, after the usual forms had been gone through, business commenced.

EARL GREY, as their Lordships were now approaching the end of that important proceeding which, whether for good or for evil, had occupied so much of their time, thought it right to call their attention to a question which he intended hereafter to make the subject of a motion. Whatever time might appear to be the most convenient for the consideration of this motion he wished in the mean time to state, by way of notice, its nature and object. That, he thought, might best be done by referring their Lordships in the first place to what was stated by Mr. Phillips in his *Treatise on the Law of Evidence*, page 373. The author

says—"As informations when judicially and regularly taken are evidence against a prisoner, if the informant die before the trial; so, on the other hand, where the informant himself gives evidence, the informations may be used on the part of the prisoner to contradict his testimony. One of the objects of the legislature, in passing the statutes, was to enable the judge and jury, before whom the prisoner is tried, to see whether the witnesses at the trial are consistent with the account given by them before the committing magistrate. Thus it was admitted in Lord Stratford's case, that the depositions of a witness, taken before a justice of the peace, might be read, in order to take off the credit of the witness, by showing a variance between the depositions and the evidence given in court *visu voce*." Now, considering the testimony which had been given at the bar, and the whole nature of the proof in support of this bill, there appeared to him strong ground for the presumption that the testimony which their Lordships had heard would not correspond with the original testimony which the witnesses had given, and on which the proceeding instituted by their Lordships was founded. The depositions of the witnesses, which had been previously taken on oath, were laid before the secret committee, and their Lordships had it therefore in their power to compare the statements they had made at different periods. From the authority to which he had referred, it appeared to be the practice of the courts of justice for the judge to have in his hands the informations taken before magistrates, in order to see whether the evidence given by the witnesses in court agree with their first depositions; and it is farther stated to be the right of a prisoner to call for the depositions taken before magistrates, in order to show a variance between them and the evidence given in court. Now he was perfectly aware that the witnesses in this proceeding had not been examined in the usual regular mode before magistrates, and that their testimony, instead of being judicial, had been, in a certain degree, extra-judicial; but it appeared that all those witnesses had been examined on oath whose depositions formed the contents of the green bag. It might, perhaps, be answered, that the informations laid before the secret committee were not strictly such as he had described them, and therefore that their Lordships could not call for them; but, however true this might be, he held that it would be sufficient for his purpose to show a reasonable ground of suspicion that they might very materially differ from the testimony which had been given at the bar. For this reason he thought it would be fit for their Lordships to have before them all the depositions which had been submitted to the secret committee, before they could attempt to come to a deci-

sion on this case. He had merely said thus much with a view of directing their Lordships' attention to the subject, on which it was his intention at a subsequent period to make a motion. He thought right to give a notice at this time, in order that their Lordships might have the opportunity of turning the matter over in their minds. When the proper time for making the motion should appear to him to be arrived, he would state more at large the grounds on which he expected their Lordships to adopt it.

The LORD CHANCELLOR said, that a question had arisen at the close of the proceedings yesterday in consequence of an application on the part of his Majesty's Attorney-General for delay, in order to afford time for Colonel Browne to appear at the bar. Their Lordships had been pleased to give time to consider whether this application ought to be acceded to, and he had now to state to them his own individual opinion on the subject. In order to satisfy his mind on the question, he had since yesterday read through the whole of the evidence, as far as it related to Colonel Browne. After that perusal he continued to think that his Majesty's Attorney-General could have done no otherwise than to make the application for delay which he had addressed to their Lordships, and he continued also to think that it was exceedingly right in the Queen's Attorney General to resist that application. Having made this observation on what had passed yesterday, he must now say that, looking at the evidence simply as matter for their Lordships' decision with reference to the justice of the case, his individual opinion was, that the application ought not to be acceded to; for that considerations of justice did not require that their Lordships should interpose any delay in the course of their proceedings. The ground on which he had formed this opinion he should state in a few words. The whole ground laid for the delay applied to what had been stated at the bar, respecting Colonel Browne. Now he had looked, as he had already stated, into all the evidence which related to that Gentleman, and he had not found any thing in it which, in his opinion, made it at all necessary that the important proceeding in which their Lordships were engaged should be suspended. Besides, he had to this general observation to add this circumstance, that if the matter of testimony which had reference to Colonel Browne had made it necessary to call evidence in vindication of his conduct, that part of the testimony which involved this supposition had been given two months ago; and even if the matter of testimony were of a nature which did require that there should be a delay on account of the case itself, Colonel Browne not being here would be a good reason for not agreeing to any postponement of the proceedings. He

had been very careful not to say much respecting what had been stated at the bar relative to Col. Browne, because whether some parts of what had been so stated respecting that gentleman's interference was proper testimony or not, would be a question for future consideration. In examining the minutes, he found only in the evidence of two persons deserving of credit any thing said which applied to the case; and looking to what they had stated, to the degree of credit which was due to them, and considering the extent and character of the testimony, he did not think it necessary for him then to express his individual judgment upon that testimony, as he was of opinion that it would be acting unjustly toward her Majesty to grant any delay. If their Lordships should be pleased to concur with him in this opinion, they would then order the counsel to be called in and direct him to inform them that they should proceed. If, on the contrary, their Lordships did not agree with him, but thought it right that a postponement of the proceedings should take place, they would then order the counsel to be called in to be informed of that decision; but he must say that, if any question of that kind were proposed he should feel it to be his duty to say to it "Not content."

The EARL of DARNLEY rose amidst cries of "question, question," which rendered it difficult to hear him. If this proceeding was to go on at all, he undoubtedly agreed with the Noble and Learned Lord that the application for delay ought not to be acceded to. He certainly did not rise to object to a proposition in which the whole House was likely to concur. [Here impatience for calling the counsel was expressed.] The Noble Lord expressed, that he took this opportunity of addressing their Lordships because he considered it to be his imperative duty to call their attention to the subject he was about to state. He could not but again express his astonishment that some individual had not before now made a motion to get rid of this bill altogether. If he could hope for success in the present state of the house, he would himself make that motion. But what he had chiefly risen for, was, to take the opportunity to enter his individual protest against any further proceeding; and this he did upon three grounds, which showed that substantial justice could not be done to the Queen, and any one of which ought to extinguish this bill. The first was, the difficulty of pursuing the clue of the evidence which had been collected for the prosecution, and ascertaining whether subornation of perjury had not been committed; the second, the abstraction of Rastelli; the third, the failure in procuring Baron D'Ende as a witness for her Majesty. Any one of these grounds was, as he had observed, sufficient to induce their Lordships to reject



the bill; but, taken altogether, they were irresistible, and rendered it palpable that substantial justice could not be done to her Majesty. He was determined to do his duty, and he considered this the most convenient time for offering this protest against the further progress of the bill.

The MARQUIS CAMDEN concurred with the Noble Lord on the woolsack, that under all the circumstances of the case, the House ought not to adjourn. He had thought it his duty, from his having had the honour to form an acquaintance with Col. Browne, to look carefully into all the evidence that affected his character; and having done this, though he thought it very hard upon Colonel Browne to be denied an opportunity of vindicating his character before that large assembly, he could come to no other conclusion than that which he had announced, and in his judgment, the House could pursue no other course than that which had been recommended to them this day. He was the more confirmed in this opinion, as he understood, from what passed in some of the discussions which had taken place when several of the attacks were made upon Col. Browne, that at some future time an inquiry could take place into the facts charged against that individual. For Col. Browne, he must say, that he knew him to be a gallant officer, and an honourable man. He had seen a great deal of service, had been 14 years a subaltern, and had been wounded.

LORD HOLLAND thought it must be obvious to their Lordships that nothing could be more improper than for them to suspend these proceedings in order to discuss the character of Col. Browne. He would ask their Lordships whether it could be considered right for any peer to stand up and pronounce a panegyric on a person whose conduct happened to be implicated in the proceedings before the House. If that was fit to be done, it would also be right for any other peer to stand up and give his opinion on the transactions in which Colonel Browne appeared to have been engaged as they stood on the minutes. From all discussion of this kind he should refrain; but in doing so he thought that the friends of Colonel Browne in that House ought also to refrain from panegyric.

The question for calling in the Counsel was then put and carried, and the Lord-Chancellor informed them that the House had decided that they must proceed.

The Attorney-General then said that he wished to call Capt. Briggs to the bar, to examine him relative to a conversation with Lieut. Hownam.

**CAPTAIN BRIGGS examined by the ATTORNEY-GENERAL.**

You have stated that you commanded the *Leviathan* when her Royal Highness the

Princess of Wales was on board that ship? I have.

Do you remember Lieut. Hownam on board that ship with her Royal Highness?—I do.

I believe you stated that Bergami was also on board that ship? I did.

Do you recollect having had any conversation with Lieut. Hownam on the subject of Bergami?—

Mr. Brougham objected to this question, upon the ground that Lieut. Hownam had not spoken of any conversation with Captain Briggs upon that subject.

There was a murmur amongst their Lordships, and Mr. Brougham said he had a right to make the objection; but he only stated his right in order to waive it.

The witness answered—I do.

Was that conversation about Bergami's being admitted to sit at her Royal Highness's table? It was.

State what Lieut. Hownam told you on that occasion?—I observed to Lieut. Hownam that in a conversation which I had had with Capt. Pechell he had informed me that Bergami had stood behind his chair when the Princess embarked on board the *Clorinde* frigate—I asked him (Lieut. Hownam) how it was that Bergami was now admitted to her Royal Highness's table? Upon which he replied, that it was so; that he had entreated her Royal Highness, on his knees, and with tears in his eyes, not to admit him to her table, but to no purpose.

Did he state to you when this happened? I understand—

Mr. Brougham objected to this answer. The witness was called upon to say whether or not it had been stated to him when this happened.

Did he state when that happened? No; he did not, when it happened.

Had he said any thing on the subject of the time at which this happened? I recollect he intimated—

Mr. Brougham again objected, and desired to know what had been said.

The Attorney-General.—I ask, to the best of your recollection, what did he say on the subject? To the best of my recollection, he said this happened on the very day that Bergami's situation was changed—that is, on the first day that he dined at the table of her Royal Highness. This is what I meant to say I understood.

Mr. Brougham said, when the witness was first asked this question, his answer, "I understood." He (Mr. Brougham) had then objected to what was to follow, but he thought the words "I understood" ought to be taken down.

The Solicitor-General apprehended the words in question ought not to be taken down. His Learned Friend had no right now to claim the insertion of the words which he had in the first instance opposed.

Mr. Brougham thought, as the words "he intimated" were suffered to remain, the expression "I understood" ought also to appear on the minutes.

The LORD-CHANCELLOR thought it was not necessary to retain the words, "he intimated."

Mr. Brougham said he had not objected to the words "I understood," but to what he expected to follow that beginning.

A conversation then followed, in which the Lord-Chancellor, the Earl of Lauderdale, the Attorney-General, and Mr. Brougham participated, which terminated in both expressions being retained in the minutes.

The Attorney-General stated that he had no farther questions to ask.

*Cross-examined by Mr. BROUGHAM.*

Captain Briggs, when did this of which you speak happen on board the Leviathan? It happened when the ship was on her passage between Ferrara and Palermo.

In what year? It was in 1815.

At what time of the year? In the month of November.

Who was present at the time? I do not recollect that any one was.

Try if you cannot recollect? We were in conversation together, I and Lieut. Hownam, walking the deck.

You were frequently in conversation with him, I believe? Occasionally.

Occasionally I mean; I do not suppose you held conversations with him every half-hour? No, nor even every day.

But this was not the only conversation you had with him? No.

Have you ever seen him since? Yes.

You have conversed with him since? Yes, he came down to me from Brandenburg-house, and wanted to find out from me the nature of the testimony I meant to give here. I replied, I would hold no conversation with him on the subject.

(Mr. Brougham.—That was very proper.)

It was at seven in the morning that he came to me. On taking leave, he said he should feel obliged to me if I could tell him whether any alteration had been made in the cabin of the Leviathan, for he did not recollect that there had been any: upon which I expressed to him my surprise at hearing him say so, and brought to his recollection that alterations had been made in the cabin, and made in his presence.

Very well. In short he had forgotten the circumstance? I must presume so.

You mentioned to him (Lieutenant Hownam) what Captain Pechell had said of Bergami. Then Pechell, I suppose, had made some difficulty—had started some objection to her Royal Highness dining on board his ship? He positively refused to sit down with Bergami; he had no objection at all to her Royal Highness.

He would not sit down with Bergami? I do not know that positively, as I was not on board that ship.

What led to the conversation you were speaking of? were you talking about Bergami sitting down to her Royal Highness's table? No, not about that.

I understood the conversation to begin with a statement that Captain Pechell had seen Bergami standing behind his chair? No.

You have mentioned the observation Lieut. Hownam made to you: did that observation operate on Captain Pechell as a reason against his sitting down at the same table with Bergami? No, I cannot say that: it occurred long afterwards; it was when Capt. Pechell saw her Royal Highness for the second time.

Did you make any note of the conversation you have mentioned at the time it took place? None whatever.

You have now spoken, then, to what you recollect of a conversation that took place five years ago? I have a perfect recollection of that conversation.

When did you first mention it? I believe I have mentioned it several times.

But do you recollect any one particular time? I remember that it was brought particularly to my recollection by a letter which I received, inquiring if I recollected such a conversation.

At what time did you receive that letter? since these proceedings commenced?—Since the house met the first time.

And you say that letter brought it to your recollection? I did not mean that it never was absent at all from my recollection.

(Here several of the preceding questions and answers were read over by desire of their Lordships, after which Mr. Brougham proceeded.)

Never from your recollection at all? I recollected it well; I always remembered it. As I have already said, when I was written to, to know whether it had occurred, I immediately answered that it had.

You say that it was always more or less in your recollection: will you name any person to whom you mentioned it before you wrote that letter? I mentioned it once or twice before; indeed, upon several occasions. If a little time is allowed me, I can, perhaps, recollect to whom it was that I mentioned it. [After a short pause.] I mentioned it to Sir G. Cockburn.

Do you mean Sir G. Cockburn, one of the Lords of the Admiralty? Yes, I mentioned it to him some time ago.

How long ago? I can't exactly say; many months ago, at least 4 or 5 months ago. I mentioned it long before I knew that I was to be examined before this House upon the matter.

When you mentioned it to Sir G. Cock-

burn, had he been asking you any questions upon the subject? No.

Did you or he begin the conversation? I forget what led to the conversation; I think it was mentioned 4 or 5 months ago; I declare I do not know what led to it.

You have had the honour of dining with his Majesty lately? Yes, at Portsmouth.

Since you were last examined in this House? Yes, since I was last examined in this House.

*Re-examined by the ATTORNEY-GENERAL.*

I believe you have the command of a guard-ship at Portsmouth? Yes, I have the command of the Queen Charlotte.

And at the time his Majesty was there? Yes, at the time his Majesty was there.

Did you dine with his Majesty along with the other officers at Portsmouth who had paid their respects to him? Yes: all the navy dined with him—I mean every one of the captains, without exception.

*Examined by the EARL OF MORLEY.*

I wish to know, Captain Briggs, whether you can swear that, on the occasion you had this conversation with Lieut. Hownam about her Majesty, the words of Lieut. Hownam were "I have gone down on my knees to implore her Royal Highness not to do so," and that they were not "I could have gone down on my knees to implore her?" I understood him to say, "I have entreated her Majesty with tears in my eyes."

By the EARL of DARLINGTON.—I understood you to say that you had not taken any memorandum of this conversation; and also that this conversation took place in the year 1815. Now, I ask you whether you can recollect the particulars of a common conversation which took place five years ago? Generally I cannot: but I have a recollection of this conversation; my attention was alive in consequence of what Capt. Pechell had told me.

By the EARL of MORLEY.—From the words which passed between you and Lieut. Hownam, did you conceive that the first time Bergami sat at her Royal Highness's table was in consequence of a previous arrangement, or some accidental circumstances?

The Attorney-General objected to this question. What Captain Briggs conceived certainly could not be admitted as evidence.

The LORD-CHANCELLOR suggested that it would be admissible to ask whether Lieut. Hownam had ever said so and so.

The question was then put in this form to the witness:—

Did Lieut. Hownam ever state to you that the first time Bergami sat at the table of her Royal Highness was in consequence of a previous arrangement, or of some accidental circumstances? I understood him to be giving an answer to my question; and I likewise understood it to happen when the

change of Bergami took place from a servant to a companion.

Here loud cries of "*Withdraw, withdraw,*" took place. After the witness had withdrawn—

The Attorney-General informed their Lordships that he had no more witnesses to call. He wished, however, to state one circumstance to their Lordships. Captain Briggs had a command at Portsmouth, which required his constant attention: and there was an order of their Lordships that every witness should be daily in attendance during this investigation. He wished to know whether it was their Lordships' pleasure that Captain Briggs should remain in town, or that he should return to his command at Portsmouth.

The LORD-CHANCELLOR suggested to the Attorney-General that he should ask her Majesty's counsel whether he had any objection to the departure of Captain Briggs. Leave had been given to other witnesses under similar circumstances.

Mr. Brougham could assure their Lordships that he had no wish to incommode either Captain Briggs or the service. He had not the slightest objection to granting Captain Briggs the indulgence he required.

The DUKE of SOMERSET expressed a wish, before the counsel of the Queen summed up, that he might be allowed to recall Lieutenant Hownam.

Mr. Brougham, interposing, said, that perhaps it became him to state whether he had any evidence to offer in rejoinder. He then added, that, under the circumstances in which he was placed, he had no evidence to offer further.

The EARL of LIVERPOOL, in reference to the request of the Duke of Somerset, said, that though in the course of the present investigation he had frequently urged the right of every Peer to re-examine new witnesses, he must still suggest to their Lordships the necessity of considering whether it would not be proper, in order to obviate any difficulty which might arise from the re-examination of witnesses who had already appeared at their bar, that any Peer, who desired such re-examination, should state the grounds upon which he desired that re-examination to be conducted.

The DUKE of SOMERSET stated, that he wished to ask Lieutenant Hownam some particulars as to the tent or awning on the deck of the *polarre*, which, to his Lordship's mind, were not exactly clear. He also wished to ask him whether the communication below had not always been open; how the tent had been placed; whether there was not a free communication with persons on the outside; and whether sailors and other persons were not always allowed to walk on the deck.

The **EARL of LIVERPOOL** had not the slightest objection to Lieut. Hownam's being recalled, nor would he now enter into any argument, with reference to the right of Noble Lords to recall him. He wished, however, to call their attention to what this new re-examination must naturally lead. If one witness were recalled, to state more particularly any minor facts, all the witnesses might be recalled for the same purpose; and yet, if they were all to be recalled, their authority would be no greater than it was before. He begged leave, therefore, to suggest to the Noble Duke that it would be better, both for the sake of convenience and of regularity, that the examinations which had been closed should rest where they did at present.

The **MARQUIS of LANSDOWN** perfectly concurred in the observations of Lord Liverpool. If the proposed course were to be pursued, every witness might be recalled who had not clearly and conclusively established any particular fact to which he had been interrogated. He was sure the Noble Duke would abstain from a course which might be productive of such inconvenience.

The **DUKE of SOMERSET** did not wish to occupy the time of the House unnecessarily, but on the points which he had mentioned it appeared to him that the evidence of Lieutenant Hownam was not sufficiently clear. In consequence, however, of what had fallen from the two Noble Lords who had preceded him, he had no objection to withdraw his motion.

**EARL GROSVENOR**, for the same prudential reasons, declined making a similar application for the like object. Cries of "Go on, go on," now proceeded from various parts of the House.

The **LORD-CHANCELLOR** asked her Majesty's counsel what it was their intention to offer next.

Mr. Brougham.—My Lords, to save your Lordships' time and trouble, my friend, Mr Denman tells me he is ready to go on.

### MR. DENMAN'S SPEECH.

Mr. DENMAN commenced his general review, or summing up of the evidence. He said, being called on to discharge the solemn duty then imposed upon him, it would be unnecessary to request the merciful indulgence of their Lordships to the individual who had to address them; and perhaps there was something in the peculiar circumstances under which he himself came forward which made it more fitting and necessary that he should receive an ample portion of that indulgence, of which he was fully sensible he stood so much in need. For, certainly—

after the application which had been yesterday made, and the wish which had been yesterday expressed by the Attorney-General, that all the evidence which he had to offer in contradiction to that offered on behalf of the Queen should be postponed until their Lordships had decided whether the evidence of Colonel Browne should be received or not, it was only natural to expect that, besides the solitary witness whom he had called to a single point of evidence, there might have been a considerable mass of contradictory testimony to consider, especially as the whole of his (the Attorney-General's) cross-examination of the witnesses for the defence was such as led plainly to the inference that it was intended to go at length into evidence in reply, and was therefore such as kept his (Mr. Denman's) attention continually suspended, and diverted his mind from that connexion with the case made on the other side which it was necessary for him to preserve, in the contemplation of being required to proceed immediately with his summing up. He did not intend to make any complaint of that circumstance, because during the time that had elapsed in proof of the accusations against her Majesty, and likewise of the defence, he should have been deficient in his duty as the Queen's counsel if he had not paid the closest attention to the whole of the evidence. He should, therefore, without further preface, proceed to make his remarks upon the whole of that evidence—evidence which, he said it boldly, had satisfied his mind, had satisfied the minds of his Learned Friends with whom he acted, had satisfied the minds of all the people of England, and those too of all the civilized nations of the world, who were looking with a deep interest on these momentous proceedings, that his illustrious client had established such a defence as made it imperative on their Lordships to give her a most complete acquittal of all the charges which had been preferred against her. He wished to proceed to that examination with all that calmness and deliberation, and absence from all personal feeling and violence, which were so necessary to be observed in order to obtain a complete investigation of the truth. But it was not to be expected that, in the many interlocutory contests and debates which had arisen in the course of these proceedings, there might not have been exhibited a tone and a temper for which an apology was requisite—but it was no other than the enormous magnitude of the case, and its tremendous consequences to his illustrious client and the country, and the deep anxiety with which an advocate must be overwhelmed in coming to the conclusion of it. They had been charged with making use of invective, declamation, and violence, for the purpose of producing an effect, not in, but out of doors; nay, he begged leave to state, that his Learned Friend had secured



to think that on some occasions they had borne personally too hard upon him; but he must disclaim all intention of bearing hard upon him, or of casting any imputation upon his honour and character; and therefore, if from what fell from him yesterday, he (the Attorney-General) supposed that he (Mr. Denman) questioned his veracity, he begged to say, that if any thing which dropped from him at that time could be clothed with such a supposition, and could warrant such an assumption, he unequivocally retracted it before the assembly in the face of which it was made, and was sorry that any language of his should lead to such a mistake. (*Hear, hear.*) He had no intention of giving uneasiness in any quarter; but he must say that he had felt it deeply, and often, in the course of this proceeding. It was therefore impossible for a man not to ask indulgence for any warmth into which he might have been betrayed; because the illustrious individual who was their client, had been, from the first moment in which she had set her foot in this country, the victim of the most cruel oppression, and the most dreadful and irreparable wrong. That galling recollection had attended them throughout the whole of these proceedings; it must be their excuse for any undue warmth with which they might have expressed themselves; and having said that, he should proceed, without any further apology, to the case itself. But, whilst he disclaimed all personal imputation on his Learned Friend, he claimed the right of adverting, with the utmost freedom, on his conduct as an advocate, inasmuch as from the conduct of an advocate not only the impressions of his mind might be collected, but also much of the nature of the instructions under which he acted, and of the spirit in which the prosecution had been commenced and conducted to its close. To have to conduct a case in such a spirit he conceived to be a misfortune for which no rewards, no honours, could afford an equivalent—a misfortune which had weighed down his Learned Friend throughout the whole of these proceedings—a misfortune to which he declared before God, that nothing within the scope of human ambition could have tempted him (Mr. Denman) to have submitted for a single moment—he meant the office of prosecuting this Bill of Pains and Penalties to divorce and degrade the wife of the King of England. In order to see the nature of the proof brought forward in support of that Bill, their Lordships must look to the charges contained in the preamble; and, in order that they might fully understand them, he must refer them to the manner in which the indictment against his illustrious client was drawn up. It stated that her Majesty, “while at Milan, in Italy, had engaged in her service an individual, in a menial capacity; and that, while in that situation, a most unbecoming and degrading intimacy

soon commenced between her Royal Highness and that individual; that he was not only advanced to a high situation in her Royal Highness's household; but that he was received by her Royal Highness with great and extraordinary marks of favour and distinction; and that she, unmindful of her exalted rank and station, and wholly regardless of her own honour and character, had conducted herself towards him, both in public and private, in the various places and countries which she visited, with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful and detestable intercourse with the said Bergami, by which conduct great scandal and dishonour had been brought upon his Majesty and this kingdom.”—He was aware that their Lordships were now upon the second reading of the bill, and that, in addressing them he had only one simple question to discuss—namely, whether the allegations in the preamble were at all made out by the evidence adduced in support of them. It had been stated (and the whole preamble went to charge it), nay, it had indeed been proved, that Bergami had entered in a menial capacity the service of her Royal Highness, and that he had been afterwards promoted; that several of his relations had been taken into her service; and that he had received several marks of favour, both himself and his family. But when the next clause in the preamble came under consideration, that clause which stated Bergami had received titles and orders of knighthood through the influence of her Majesty, he thought that it was only fitting that some evidence should have been given that they were really obtained by that power and that influence. All that their Lordships had heard was, that at one period he was without titles, and that at another he possessed them. There had not been a tittle of evidence produced to show how he had obtained them, or that her Royal Highness had been instrumental in procuring them for him, except such evidence were to be found in the circumstance of her Royal Highness having conferred upon him an order of Knighthood which she was said to have instituted, without any legal right or authority so to do: but before that clause of the preamble which charged this occurrence could be considered as a crime against her Majesty, he thought that they ought to have heard something to prove that none but royal personages had a right to institute orders of knighthood. In the course of his historical inquiries he had never met any thing which led him to believe that this was the prescriptive right of royalty alone; on the contrary, he had found that it had been exerted by many individuals of inferior rank. In France several orders had been established by persons in a capacity infinitely more humble; and also in Italy by three merchants, brothers, he believed, though he did not at that moment recollect their names



—all which went to prove that there were precedents for the establishment of orders of knighthood by private individuals. He treated this part of the accusation with seriousness, because it was so treated in the preamble of the bill, and because it was there charged against her Royal Highness as an unparalleled infringement of royal authority. When this was the first instance within six centuries of an European Princess visiting the Holy Sepulchre, there could surely be no crime if she, delighted with the adventure, and struck with the novelty of all around her, did that which the Dukes of Orleans and of Bourbon had done before her—institute an order of knighthood to reward those who accompanied her. He could hardly suppose that this could be visited with any peculiar severity against her Royal Highness, though it was the charge against her which had been best proved. Bacon had said, that “princes had many times made to themselves desires, and sate their hearts on toys, sometimes upon a building, sometimes upon erecting of an order.” The illustrious Lady, his client, was proved to have erected an additional wing to the Villa d’Este, which he understood to be in the best taste, and to do no discredit to her Royal Highness’s judgment, however it might differ from those buildings which had been recently erected in this country. And as to the order which she had established, it was merely inserted to swell out the preamble, and ought not, therefore, to attract any more of their Lordships’ notice. When he came to the next clause in the preamble, he came to that clause which charged her Majesty with indecent conduct and adulterous intercourse, and that he believed to include the real question on which their Lordships were then assembled to decide—namely, whether the adulterous intercourse had taken place at all? and then, whether it had so taken place as to bring a scandal on the King, and dishonour on the people of England? And here he could not help observing, that her Majesty’s Counsel approached to that issue under all the disadvantages under which it was possible that a defendant could labour, inasmuch as they were in utter darkness of all the charges which they were called upon to meet up to the very hour of the trial. The opening speech of the Attorney-General was the first specification of the charges which they had to refute—and, that too, not a specification of the witnesses who were to support them—for his Learned Friend had not mentioned the name of a single witness in the whole course of his speech, but a mere specification of the charges against which they had to defend their illustrious and injured client. He should therefore refer to the speech of the Attorney-General, as to the case which he was called upon to answer; and the only way in which

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he could do it would be by observing on the statements which it contained, and on the manner in which they had been supported by the witnesses he (the Attorney-General) had produced. The first case, on the first count, or the first overt act of high-treason which had been charged against her Majesty, was the alleged transaction at Naples: and certainly there never was a series of facts more likely to make a deep impression upon an audience than that which had been detailed to their Lordships by his Learned Friend. That detail not only made it clear that the adulterous intercourse charged in the Bill occurred on that very night, but gave a semblance of colour and probability to all the circumstances which had followed after it. For what was the statement of the Attorney-General? He had said that the person whom he charged as the paramour of her Royal Highness, and who before slept a distance from her Royal Highness, was on that night removed to a chamber near her—that the boy Austin, who before slept near the person of her Royal Highness, was on that night removed by her desire—that on that night she had returned at an early hour from the opera—that her maid, who happened to be present, observed her to be greatly agitated—that her Royal Highness retired to her chamber, and hastily dismissed her attendant: and then came the remarkable addition to the maid’s testimony, which was—according to his Learned Friend’s statement—that on the following morning it was discovered that her Royal Highness had not on the preceding night occupied her own bed; but that in the larger one there were found decisive marks of its having been slept upon by two persons. The Princess on that morning was not visible at an early hour, as usual; that she remained locked up in her room till late in the day, and did not then receive the several persons of rank who called to pay their compliments upon her Royal Highness’s arrival at Naples; and during that forenoon Bergami was missed from the breakfast table of the servants. What followed in his Learned Friend’s speech came naturally enough after these proceedings—namely, that Bergami’s conduct became altered, that he assumed an impudent and overbearing manner towards the other domestics, and conducted himself with intrusive and improper familiarities towards his Royal mistress. Such were the charges that had been opened, confidently opened by his Learned Friend, the Attorney-General, and which, doubtless, if proved by the witnesses for the bill, naturally led to only one conclusion. But he asked their Lordships, did that result follow in this case? or were not, on the contrary, all the facts which were capable of refutation clearly and unequivocally contradicted by her Majesty’s evidence.

From the evidence on the part of the Queen was it not clearly proved that, instead of the change of the apartments having taken place with her knowledge and authority, it was done of his own accord by her Majesty's housekeeper, in the bustle of a new arrival, to provide more accommodation, and altogether without her Majesty's being consulted on the subject? If, therefore, it should appear that this arrangement was made by Mons. Sicard, without the Princess's knowing any thing whatever of the matter, what became of his Learned Friend's statement of this part of the case in his opening speech? Then, as to the removal of W. Austin from sleeping in the same apartment with her Royal Highness, what became of the statement that this change was made for the first time on the Princess's arrival at Naples, when it was shown to have previously and repeatedly taken place before her Royal Highness's arrival at Naples, whenever the travelling accommodations admitted the change? and this was most properly done upon the remonstrance of her Royal Highness's chamberlain, who thought the age of William Austin rendered it necessary—he being then 13 or 14 years of age—that he should be provided with a chamber apart from that of the Princess. There was, so far, an end to the novelty of Austin's separate room on the Princess's arrival at Naples. If, then, it should also appear that the Princess so far from returning early from the opera, remained there until the close of the performance—if, instead of secretly coming home, she remained, as Sir William Gell, who accompanied her, deposed, in the same state in which she went to the theatre—if, instead of De Mont being in waiting to attend she was called up for the purpose, and that Sir William Gell actually escorted the Princess to the door of her apartment—if, when all these things met their Lordships in proof on the minutes of the evidence, and that, from the same authority, it should further appear that no agitation was observed at the time alluded to in the Princess's manner, nothing unusual or particular seen in her conduct that night, no oversleeping on the following morning; no refusal to see persons of rank who came in the forenoon to pay their respects, no missing of Bergami from the servant's breakfast-table—then, after Their Lordships saw all this in proof, had he not a right to say that the witness De Mont's story stood so covered with contradictions upon all these facts, which were, from their nature, capable of being repelled by evidence, that on the only remaining parts of it, which from her saying she was alone at the time with the Princess, were incapable of being met by direct contradictory evidence, she was utterly disintituled to any belief! The Princess's manner, she said, was agitated.

Now, in the first place, it was not easy to depend upon one person's opinion of the manner of another; that was a very difficult sort of testimony to rely confidently upon under any circumstances; but when every part of De Mont's testimony which came within the observation of another, was utterly and effectually contradicted, what reliance in any degree could be placed upon the slightest part of her long and oft-contradicted examination? In referring to the mass of details which lay in the minutes before their Lordships, he feared he must necessarily become tedious; but he knew that they who had witnessed the whole proceedings would see the necessity of his recalling their attention by reference to such parts of the evidence as bore upon the case of his illustrious client. If in any part of his reference he should fall into unintentional error, he should not consider it any interruption, but, on the contrary, a serious favour, to be set right as he went on, either by his Learned Friends at the other side, or by any of their Lordships. His object, in now alluding to the evidence, was not to get rid of the effect of these things by showing how incredible, how impossible, was their occurrence in the manner stated by his Learned Friend; but shortly and simply to show, that not only was the opening case not proved by the evidence adduced to support it, but that many parts of it were expressly negatived out of the mouths of the Attorney-General's own witnesses to substantiate his own facts, as well as out of those of the witnesses brought forward in behalf of her Majesty. By referring to the evidence of Sicard, in pp. 566 and 593 of the Minutes, they would find the two charges fully and unequivocally negatived, respecting the change of the apartments at Naples, and the bed in the cabinet. In Mr. Keppel Craven's evidence, in pp. 537 and 543, they would find the recommendation at a previous period, that it was proper Wm. Austin should be placed in a separate sleeping-room, for that his age at that time rendered it unfit that he should sleep in the same room with the Princess; and from this part of the evidence it would also be seen that this proper recommendation had been acted upon, and particularly in Germany. In the evidence of Sir William Gell and Mr. Craven, in pages 585 and 551, there was demonstrative proof that these gentlemen had remained with the Princess until the close of the opera at Naples, and for reasons that rendered their testimony conclusive. Then, again, came the total absence of all proof that Bergami was absent the following morning at breakfast-time, and the flat and strong contradiction that any change in his behaviour had been observable at that time, either towards his mistress, or any of his fellow-servants—a change which would have been most natural indeed, if the

by the Attorney-General, in truth. He adopted his Learned Friend that in the demeanour of Bergami permitted by his mistress parties with her which laid his charge. But there was in the minutes of evidence which did not go to negative conduct, and of course to destroy once that was drawn from it. From last, from the time at which he occupied a humble station in the household, up to that when he was honoured with a higher and more confidential place, his whole conduct was distinctly proved to be that of an humble and respectful servant to a mistress who was kind and affable it was true, but who, in her affability, never lost sight of her proper dignity. Mr. Craven's evidence on that point was quite conclusive. That witness, when asked whether Bergami's manners at the outset were those of a gentleman, very properly answered, "I do not know what can be meant by the manners of a gentleman in a courier: I know he conducted himself well as such, and afterwards when I met him at her Royal Highness's table, his conduct was unexceptionable." With respect to what De Mont deposed in p. 253, respecting the two beds—namely, that no person slept on the night she mentioned in the Princess's small travelling-bed but that two must have slept in the large bed, from the tumbled state in which it appeared—it was a little curious that, if the Princess were guilty of the crime imputed to her, she should have left such proofs open for her detection, such marks calculated to excite observation, when they might so easily have been obviated. He should show that this part of the statement was altogether improbable, and utterly discredited to any credit. It was also ludicrous to attach any value to her statement upon that point, after the manner in which she took her evidence in her cross-examination by his Learned Friend Mr. Williams. Was it not also remarkable, that until the 3d. or 4th. day of her examination, she should have withheld those remarkable appearances on the counterpane, which, if true, were so important for the purposes of the prosecution, and must necessarily have been communicated to the Attorney General in the previous depositions of De Mont? How did it happen, then, that the Attorney General, in his questions to the witness, entirely overlooked such unquestionable proofs of the criminality which it was his duty to establish? He must have had these depositions of De Mont's evidence before him. How did he then omit such a question? for surely, if she could speak to such a fact, she must have long before mentioned it to the agents for the prosecution. It was

for his Learned Friend to have explained so singular and extraordinary a circumstance. Indeed the adage was never more verified than in the reflection which this witness's testimony excited:—

"Calumniesando semper aliquid erat."

Though her testimony was disproved, still unfortunately the experience of human nature showed that sufficient traces of the evil inflicted would long remain—traces for which indeed his illustrious client could receive no adequate reparation, which no punishment of the parties would atone for, no time sufficiently efface. What could atone for the statement of the Solicitor General, who, after reciting the falsehoods (for such he was now entitled to call them) of De Mont respecting the Princess's conduct on the night of her going to the theatre at Naples, had said that no man who heard him could doubt the fact, that on that night the adulterous intercourse commenced between her Royal Highness and Bergami, which was afterwards continued without intermission? When such statements were made, it became almost impossible for the mind to get rid of the impressions which they affixed upon it; the mind lingered with them often, notwithstanding their contradiction in evidence; and the melancholy reflection was, that their effect, so injurious at once to the feelings and peace of the object of them, survived the existence of base surmises upon which they were founded. Never had there been in the annals of any court of judicature, any opening statement of a case so miserably attempted to be sustained by evidence as this had been—never a case so satisfactorily disposed of by the conclusive evidence which was brought against it. Notwithstanding this complete destruction of the facts upon which the bill was attempted to be founded, still he repeated that, his illustrious client must suffer under the effect of such a prosecution, however satisfactory her innocence was established; and her feelings must be exposed to an indignant agitation which to her must be irreparable. The Learned Gentleman then quoted, in illustration of his opinion, the following observation in the *Quarterly Review*:—"To refute errors is no trivial task, for the labour is not very amusing. It requires more time and cost to repair an edifice than to damage it; and certainly more zeal to defend the calumniated than to raise the calumny. An attack, if it deserve notice, is necessarily lively, and our attention is raised by the air of novelty it carries with it; but a defence can boast the honest intention of carrying us back to the same place we had formerly occupied; and nothing short of a miraculous demonstration will so completely eradicate a false or an aggravated charge, as to leave no traces of it behind in the minds of those

who have long received the erroneous impressions." He should not come to what he considered the "second counts of the indictment"—namely, that which embraced the conduct of her Royal Highness at the masked ball she gave to the then King of Naples.—His Learned Friend, in opening that part of the case, had said that, when her Majesty wanted to make an entire change of her dress during that ball, she retired to an inner room alone with Bergami, in whose presence, unassisted by any other person, she changed her first dress, and put on one which was highly indecent. Here again he had reason to complain of his Learned Friend, for there was nothing in the evidence to sanction that statement. Was there ever any thing so disproved as this? The Turkish dress which the Princess wore had nothing whatever indecent in its arrangement, and it was, during one part of the evening, the dress of some of the Princess's suite. But it was said that Bergami, being offended at something that passed between him and the Princess, retired from the ball—that he was followed by the Princess, who ineffectually tried to prevail upon him to return to the company, and that her Royal Highness was herself obliged to leave him, having failed in her entreaties. Was there a single iota of evidence to sustain this statement? Could the Princess have been for three quarters of an hour absent on that night from her ball, without its being observed? But, if even she had been so absent, was it likely she should have called her maid into the ante-room, only for the purpose of listening to her vain attempts to recal Bergami to the ball-room? It was said, that if De Mont has sworn falsely, it was in the power of her Majesty's counsel to call evidence to contradict her. So they had, where she spoke of matters to which a third person was privy; but they had no power of contradicting her respecting statements where she represented herself as being the only spectator, except out of the improbability of her own story, which, fortunately, where there was not better evidence, was sufficiently decisive. Where was the use in pursuing cross-examination to any great length with a witness whose story was her own invention? To press her further was only to carry her further in her career of deception; for vain indeed must it appear to hope to confuse her memory after a three years' rehearsal. He recollected an anecdote of a particular friend, who, upon relating a circumstance, was informed that it was not true, and told, by the person who made the observation, that he knew it upon as good authority as the other did. But the other replied, that so he might for that he had himself invented the circumstance, and told it to that person. De Mont then was like his friend the sole inventor; she was the historian; there was no going higher than the source; where was the use

of ascending above the fountain? the more that the attempt was made to go back farther, the brighter became the ardour of this witness's invention. It did, however, so come to pass that both Sir William Gell, in page 562 of the minutes of evidence, and Mr. Craven, in page 536, as well as Sir William Gell, indeed, again in page 552, clearly showed the falsehood of De Mont's story of the ball-scene. From this evidence her whole story was rendered untenable; and in page 255 it would be seen that Bergami, so far from quitting the ball-room, had remained like the other servants serving up refreshments to the company during the night.—The Turkish dress of the Princess too was disposed of with equal effect; for the trowsers, as they were called, consisted of a simple thread which marked a division in an ordinary petticoat, and had nothing in its shape bearing the smallest similitude to indecency. There was another point in the statement for the prosecution which had been greatly dwelt upon, namely, the story that the Princess had been seen walking arm in arm in the garden with Bergami. Thus they had in page 7 from that famous witness Majocchi. De Mont said she only observed it once. De Mont, in this part of her testimony, resorted to the old and dangerous artifices of engrafting her falsehood upon a small portion of truth. The fact was simply this—there were some trees planted in the garden, and repairs going on, respecting which the Princess desired to give some instructions, and she went into the garden among the Italian workmen, accompanied by Bergami, whom the Princess took there to communicate to the workmen, which she could not do intelligibly in their language, the alteration she desired. Though Bergami attended her in the garden, it was false that he was arm in arm with the Princess. If their Lordships would please to refer to pp. 450, 557, and 562 of the testimony of Sir Wm. Gell and Mr. Craven, they would at once discover the falsehood of the charge built upon the circumstance to which he had just alluded, and they would also find that the Princess was, at that period, cautioned by one of these gentlemen against being seen even walking as she had walked with Bergami in the garden, and informed her that her most innocent acts were liable to the greatest misinterpretation, as persons were then spying into her conduct with the worst views. They had also heard from the same witnesses who contradicted the story of walking arm in arm, that this garden was surrounded by the neighbouring terraces, and that, at the time spoken of, Bergami, so far from walking arm in arm with the Princess, was in attendance upon her, and walking after her as a servant upon a mistress. His Learned Friends in conducting this prosecution had repeatedly said that they had no interests to serve except to promote the ends



of public justice. His Learned Friend the Solicitor-General had said, that his duty was not to impose or to influence by any distorted statement; all that was required of him was that he should sum up the evidence with truth and accuracy, and then point out how it applied to the charges upon which the Bill was founded. If it were not expected of him to incur any charge of this mis-statement, still less, he hoped, was it expected of him to use the slightest expression derogatory from the station and dignity of her Majesty the Queen. No such expressions should escape his lips. Indeed, no effort had been spared by Counsel which ingenuity, dexterity, or management, could suggest to effect their purpose. He did not complain of the efforts of his Learned Friends in support of the Bill. It was of course their duty to act upon the evidence submitted to them; that evidence came to them in the shape of instructions and they were bound to manage them in the most dexterous way they could. His Learned Friend, the Attorney General had indeed taken manly ground, and it was pleasant to deal with such an adversary. The Solicitor-General, however, put the case upon a different footing. The one promised proof of what he meant to support in an authoritative form, but the other addressed their Lordships in his summing up in the tone of a judge instructing a jury upon the facts on which they were to give a verdict. The Solicitor-General said, in his summing up, that he hoped he might be allowed in conclusion to say—and he said it from the bottom of his heart, and in the utmost sincerity—he sincerely and devoutly wished, not that the evidence should be confounded and perplexed, but his wish was that it should be the result of this proceeding that her Royal Highness should establish to the satisfaction of their Lordships, and every individual in the country, her full and unsullied innocence. These declarations of his Learned Friends, the eager advocate on the one side and the impartial judge on the other, showed a division of labour between them. It was as if the one had taken the events of Monday, Wednesday, and Friday, and the other those of Tuesday, Thursday, and Saturday, under his special cognizance. The conclusion of his Learned Friend the Solicitor General, could not fail to have struck their Lordships as being very remarkable: he had prefaced it by demonstrating, as he conceived, the impossibility of rebutting the facts set forth in the prosecution, and he had concluded with a sincere and devout prayer that her Majesty might still be able to prove her entire innocence. This must be taken as a happy omen, for it was the first prayer, he believed, that had emanated for her Majesty from any officer of the King's government, and he hoped it might be considered as a happy omen, which preceded the resto-

ration of her Majesty's name to the office of the church, from which it had been so improperly and illegally removed. The Learned Gentleman then said that he would recur to the minutes of evidence to impress still more strongly upon their Lordships the glaring inconsistencies and contradictions which were to be found on the minutes of evidence in support of the Bill. He now begged to direct the attention of their Lordships to what he would call the third count of the charge. De Mont stated that she had seen Bergami in the passage leading to the Princess's room. This was insisted upon as a most material part of the case: their Lordships would now see how the case stood, as it appeared on the minutes. In p. 251 were the following questions:—

“Do you remember ever seeing Bergami at night in the passage of which you have made mention? I do.

“Where was her Royal Highness at that time? In her bed-room.

“Was she dressed or undressed, or in what state? She was undressed.

“Where were you standing? I was near to the door of her Royal Highness.

“Where did you see Bergami? I saw Bergami come out of his room, and come into the passage.

“In what direction? towards the Princess's room, or how? He was going towards the bedroom of her Royal Highness.

“What was the state of Bergami's dress at the time you saw him going towards the bedroom of her Royal Highness? He was not dressed.

“When you say he was not dressed, what do you mean? what had he on? He was not dressed at all.

“Do you remember what he had on his feet? Slippers.

“Do you remember whether he had any stockings on? I saw no stockings.

“Had he any thing on more than his shirt? Nothing else.

“You have said that the Princess at that time was undressed; had she got into bed or not? She was not in bed.

“When you saw Bergami coming along the passage in the direction of her Royal Highness's room in the manner you have described, what did you do? I escaped, by the little door which was near me, out of the apartment of the Princess.”

This, continued Mr. Denman, was the account given by De Mont; but, in her cross-examination, his Learned Friend Mr. Williams drew from her that she went towards Bergami instead of retreating from him. She also said she escaped; she never went to see where Bergami was going; but she, to use her own word, “escaped.” Was it possible that from this circumstance their Lordships could believe that adultery was committed on that occasion? Supposing the whole of this



I did not; *non so*. I do not know, *più no*, more no than yes—*non mi ricordo*, I do not remember." Was this answer a proof of a frail memory? or did it not show that the witness who had so sworn was anxious to do something to earn the money he had received by giving his wretched deposition in support of this case? He (Mr. Denman) would not now go into this part further. He would afterwards have to call their Lordships' attention to what he should show was a conspiracy. It was not necessary for him to go into detail with every circumstance respecting this man's testimony; but there was one to which he wished to call their Lordships' attention. They had heard the seeming accuracy with which he had described the bedrooms in several places through which her Royal Highness had passed; but at Civita Vecchia, Porto Ferrajo, Rome, and several other places, he could give no account whatever of the disposition of the rooms. If this alleged adulterous intercourse were still followed up, it must have led to similar dispositions of the apartments, as it was manifest that it could not have been carried on in open day; but of such dispositions Majocchi could not recollect one word. This was the frailty of memory, the wilful and corrupt forgetfulness of which his Learned Friends had complained. There was one part of the case which had nearly escaped his recollection; their Lordships would bear in mind that in the opening statement of the Attorney-General great stress was laid on the scene which was said to have taken place at the theatre of San Carlos. Her Royal Highness was described to have been so indecently attired as to excite the indignation of some of the company present. What, however, did this turn out to be? What was De Mont's account of it? She stated, not that the dress was grossly indecent, but that her Royal Highness was covered up in an ugly dress, and, being surrounded by a number of disagreeable masks, they had left the theatre. But what said his Learned Friend the Solicitor-General to this? He had asked, "Could De Mont have invented her account?" He (Mr. Denman) said she did invent, and that her story was nothing but invention. They had proved her falsehood where it was possible she could be contradicted. They had proved it in her account of getting leave of absence from Como. But, said the Solicitor-General, and he (Mr. Denman) had heard the observation repeated by other sagacious persons out of doors, this could not be a conspiracy, for it had not gone far enough. He maintained that, if it were true, it had gone far enough; and the circumstance of having omitted some parts, in particular situations, arose solely from this—that the witnesses were afraid to tell what they knew might be within the knowledge of others. He had heard it said, that it was always a matter of great

difficulty to prove the fact of adultery itself. In general, a *corpus delicti* was a matter of inference from the circumstances of the case. He denied that in any case the fact could be inferred from such evidence as the present; but in no case could it be more clearly proved than in this, if it had ever existed. This chambermaid, who was so willing to swear against her mistress, must have had opportunities of knowing if it had occurred. Indeed this seemed to have been felt on the other side; and De Mont, when she came to mend her evidence, spoke of having seen stains on the bed. If this were true, why had they not called the person who had made the bed for two months before? Why was not Annette Preising produced, whose evidence would have been most material to this point? Did their Lordships suppose that those agents who had collected together a set of her Majesty's discarded servants, who had ransacked filthy clothes-bags, who had raked into every sewer, pried into every water-closet, who attempted to destroy all the secrets of private life, who had wrung the feelings of a lady of rank and respectability by making her, at that bar, confess her poverty, and the embarrassments of her husband—who had interfered with private family concerns, so far as to produce a letter addressed by her to that husband; did their Lordships imagine that they who had resorted to such mean and filthy practices would have stopped short at producing such a witness as Annette Preising if they thought that she would have borne out the testimony of De Mont? No: they rested upon that testimony, of which he would say no more at that moment, than that, if brought before any honest court of justice, it would have been scouted out. He now proceeded to her Majesty's journey to Genoa, Catania, and several other places. A circumstance was said to have occurred at Catania, which was alleged to be decisive of the case, as it proved the fact of adultery. Her Royal Highness was said to have been seen coming out of Bergami's room with pillows under her arm. This rested on the testimony of De Mont; and it was surprising how in this, as well as in every other part of the case, she so shaped her story as to prevent her being contradicted by others. When asked who was in the room with her at this time? she answered, her sister, and, when asked another question, she expressed a doubt as to her sister being in the room at that time. He took that to be decisive against the truth of her story. It was impossible that she should not have known whether there was or was not another woman with her when the circumstance occurred. This was the only fact where her sister could be called upon, and therefore she left the matter in doubt, because, if Marietti were called, she (De Mont), might observe that it was a matter that had escaped her recollection. Thus the

whole part of the case rested upon herself. She described her Royal Highness as having appeared confused and alarmed at being seen by her in that situation; and she stated that her Royal Highness had not spoken to her, as she was accustomed to do. But why should her Royal Highness have been confused? Why should she appear alarmed at being seen thus by a chambermaid, who had been making her bed for months before, and who must have been aware, according to her own account, of other circumstances still more suspicious? But the whole of this story was an invention of this woman, of whom he would say nothing more at present but that there was no part of her testimony entitled to the slightest credit. And now, leaving these two pillars of this case vouching for each other, he would come to another point of this proceeding, which would show to their Lordships that her Royal Highness had been made the victim of perjury and conspiracy, by those Italian witnesses, who had come over here to dethrone a Queen on account of her moral conduct. The word conspiracy seemed to excite a feeling of horror among their Lordships, as if such a thing had never been heard of—he would not say in Italy—but even in England, and by Englishmen. Since their Lordships had commenced their sitting in this extraordinary prosecution, within the last few weeks, two cases of conspiracy were tried in Guildhall, London. One was that of Miss Glenn, a young lady who had sworn to an attempt, on the part of a young man, aided by several of his relations, forcibly to convey her away for the purpose of forcibly marrying her. This young woman underwent a long and minute examination; and, when the judge was about to sum up the evidence, the foreman of the jury, who, he believed, was Mr. Bankes, the Member of Parliament, declared to the Court that there was no necessity, because the jury were unanimously of opinion that the case was fully established, and they accordingly returned a verdict by which six or seven persons were condemned. A new trial was afterwards moved for, and affidavits having been heard on both sides, that application was refused. At last the parties preferred a Bill of indictment against Miss Glenn and her servant for wilful and corrupt perjury.—The case was tried a few days ago, and Miss Glenn and her servant were convicted on the clearest possible evidence. Justice was now, alas! about to be done to the injured parties; but it came too late to save the life of one of them, the sister of the young man, who had been tried and convicted with him, and who had ultimately sunk under her misfortunes. It came too late to retrieve the injury done to their affairs, but he trusted it did not come too late to operate on their Lordships; to show them that a conspiracy by persons respect-

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able in life, much less by Italian witnesses, was not impossible; and that evidence might be got up, as for a time to destroy the character of innocent individuals. There was another case to which he might call the attention of their Lordships; the case of a prosecution in which he had himself been engaged, and which was tried in the court of King's-bench against certain individuals, for a conspiracy to set up a sham commission of bankruptcy. It was the case of "*the King v. Cohen*," and abundant evidence was there produced that ten who were convicted, and others who escaped, were in the daily habit of false-swearing, and of receiving money as the consideration for false testimony. This happened in England, where the same persons were afterwards liable to detection, and might be brought to legal punishment. It was on that occasion demonstrated that witnesses might be hired as readily as lodgings might be hired at the west end of the town. But it was impossible that their Lordships should have forgotten the case of Elizabeth Canning, and a crowd of witnesses who then testified solemnly to what was grossly false. The same remark was applicable to the case of Titus Oates, whom he was content to consider as the hero of a poem only, but with reference to whom he might be permitted to allude to a period when the then Duke of York was in a state of doubt whether he would or would not cast off the wife, the daughter of Lord Clarendon, with whom he had clandestinely contracted marriage. In the *Memoirs of the Count de Grammont*, it was stated that marriage, or at least cohabitation, had taken place between the parties. What did all this imply but that agents might always be found to gratify the lowest passions which unfortunate princes, or individuals in high places, were disposed to indulge? It was undeniable that the facts alleged in evidence against Queen Anne Boleyn were stated as distinctly—indeed much more distinctly—than were the circumstances in the testimony produced in support of this bill. It was altogether evidence much stronger and more unexceptionable. But, without dwelling on the events of a period so remote as the reign of Henry VIII., however similar some of those events might be to the transactions and business of the present day, he would now advert to a period within the recollection of them all—to what passed, in fact, in the year 1806. The result of an inquiry into charges affecting her Majesty's character at that time was to cover her accusers with infamy and shame. Their Lordships, looking back to that investigation, must of necessity contemplate the process now going on with the utmost jealousy and care. When it had pleased his present Majesty's Government to separate the mother from the daughter, was it not upon record that this decision was founded on per-

jury and subornation? How otherwise were they to understand the minute of council drawn up, or at least dated, in February 1813, and in which the letter of her Royal Highness, charging the existence of "suborned traducers," was alluded to? It was felt by her Royal Highness's advisers to be their bounden duty to declare that there had been suborned traducers, but that an Illustrious Person stood acquitted of the subornation. Without charging any conspiracy now, he would venture to say, that if any place or country was to be selected or preferred as the scene of a conspiracy, and that the selection and preference were judiciously made, the scene would certainly be in Italy. It was there that the means presented themselves—it was there that cunning and artifice thrived—there that a price was openly set upon an oath—there that every infamous purpose might by bribery be carried into effect. They were now inquiring into the transactions of six years, and guided only by the light of Italian evidence. Could they, as men of the world, as men acquainted with history, imagine for one moment that the information given to them by witnesses for the prosecution was not given with the countenance of immediate favor, and the hope of future reward? He would refer them at present to the evidence as to what passed at Savona, and in the course of which it was sworn that two persons had certainly slept in one bed there. The only ground upon which this fact was stated was a former deposition of De Mont, and which was left utterly unsupported by her testimony at their Lordships' bar. So with regard to the allegations of an illicit and adulterous intercourse taking place at Varis and at Lugano. No witness from Lugano had been called; he meant not to cast blame on his Learned Friends on the other side, but he did think they ought to have been prepared with that branch of the evidence before they made the charges which, in pursuance of their instructions, they had felt themselves obliged to make. The riot, as it had been called, which took place at Dover, happened in June last, and how was it that his Learned Friends, during the long interval between June and the 7th of September, had neglected to re-assure the spirits of their witnesses, and discover some opportunity of bringing them over in safety? Material evidence might sometimes be lost by accident, but was it credible that accidents had operated here? His Learned Friends on the other side, with all their ability, had failed in one of their chief attempts—that of proving guilty conduct on the part of her Majesty the Queen at Naples. It was with a great degree of confidence that he now proceeded to examine more minutely the character and nature of the evidence on both sides. He would, however, previously remind their Lordships of a passage in Roger North's life of his brother, Sir Dudley North,

a merchant in Turkey, and in which it is observed, on the ground of the Turkish merchant's experience, that, "before the Cadi, false evidence was a much surer ground to go upon than true, for a witness of plain honesty would not stand under the captious questions which were sometimes put to him." It was remarkable that all the humorous scenes described by our great dramatic poet, whenever he had occasion to paint the character of a man anxious to blacken the reputation of an innocent wife, he chose his scene in Italy. In one of his productions, it was represented that a thousand ducats was given at Messina for the evidence of a person who was to swear away the honour of a woman.—Their Lordships might do well to refer to the character, as there developed. The passage which he now alluded to was as follows, "Which be the malefactors?" "Marry that am I and my partuer." "Now write you down that he says he has received a thousand ducats for accusing the Lady Hero wrongfully." "Marry, Sir, they have committed false report; moreover they have spoken untruths; secondarily, they are slanderers; sixth and lastly, they have belied a lady; thirdly, they have verified unjust things, and, to conclude, they are lying knaves." (*A laugh.*) He hoped this last quotation would not be considered altogether inapplicable, taken as it was from the last act of a celebrated comedy, called *Much Ado about Nothing*. (*A laugh.*) He now came, however, to a closer examination of the evidence—evidence of a kind which had never before been so amply remunerated. It appeared upon their minutes that Gargiulo's vessel had been hired by her Majesty, with all its crew, at the rate of 750 dollars per month; this, in fact, was the sum to be paid for the use, and the exclusive use of Gargiulo's ship. But the captain, being in the employment of a royal person, looked forward to something else, and limited his expectations to a sum of 6,000 dollars. Disappointed in those expectations—and through the means of Bergami—coming over to this country to enforce his claims, was it not probable that he should consider the attainment of his object likely to be facilitated by the evidence which he gave on this occasion? It was idle to suppose that any witness for a prosecution of this nature would come forward with a mind perfectly unbiassed. On that account alone it became necessary to require evidence the most pure and the most unsuspecting that could be obtained. An improper intercourse was alleged to have taken place between her Majesty and Bergami, or rather it was alleged that they were observed sitting together on a sofa, and under an awning, with a view to that improper intercourse. If this representation were true, the parties could not have adopted a surer mode of proclaiming to the world what their intention and

purpose were. Kisses and caresses were spoken to, and really such evidence deserved the pay which had been received for it. But how was it that only the captain and the mate, the uncle and the nephew, should appear to corroborate a story of this kind? Was it not probable that the uncle had said to his relative—"There never was a happier prospect for the family; here is already an allowance offered of 800 dollars a month for yourself; and, as for me, I am to receive a thousand?" He put it then to their Lordships, whether evidence given under such circumstances ought not to be admitted with suspicion and distrust? "Come to England with me," quoth the uncle: "there is a process going on which will continue at least for a year, and in which you and I may be material witnesses?" It was very singular that they, and they alone of all the individuals belonging to the polacre, should be called to speak to the incident acts mentioned in their evidence. The crew was composed of 28 persons, and not one of them appeared to confirm the story told by the captain and his mate. He would contend before their Lordships that the absence of all that crew was in itself proof of criminality on the part of the prosecution; and was in itself an acquittal of her Majesty. It was a most shameful thing to have drawn any gross inferences to the prejudice of her Majesty without previously examining Lieutenant Flynn, who was on board the polacre at the same time. When it was represented too that English ladies and gentlemen were driven from the society of her Royal Highness in Italy by prevalent rumours and reports, it was obviously incumbent on the other side to bring those English persons forwards to render their testimony as to the foundation and authority for such rumours. How could they otherwise trace such reports to their origin? There was no judge in this country who would allow the statement of rumours to be put in evidence against any man standing upon his deliverance before a jury. His first observation would be, that such rumours might be the offspring of malice, and of feelings in which the prosecution itself had originated. Some might listen to them with a servile readiness of belief; but he would repeat before their Lordships, that the evidence of Lieut. Flynn ought to have been taken before this prosecution was instituted. He had been taken on board the polacre, not because her Royal Highness wished to avoid English society, but because she wished that an Englishman should be about her on a voyage with a Sicilian crew. She had therefore applied to Capt. Briggs for an English officer to attend her. Her voyage from Syracuse to Jaffa was then undertaken, and on the journey afterwards to Ephesus an impropriety was alleged to have taken place. Majocchi was the only witness to this part of

the case; he described her Royal Highness and Bergami on the vestibule of an ancient ruin, but neither De Mont nor Girillo gave any confirmation to his statement. He would now proceed to call their attention to page 705 of their printed minutes of evidence; to a part, in fact, of the evidence of Lieutenant Hownam.

The EARL of LAUDERDALE here rose, and suggested that a short delay might be convenient, and even necessary, to the counsel, to enable him to do adequate justice to the defence.

Earl Grey and the Earl of Liverpool joined in the same expression of feeling.

The LORD-CHANCELLOR observed, that Mr. Denman had unquestionably an important duty to perform, and if he wished for an adjournment until the next day their could be no objection to it: their Lordships were disposed to gratify his wishes in this respect, and it was for him to say whether he would prefer an adjournment, or retire only for a short time.

Mr. Denman said that, with their Lordships' permission, he would retire for a short time.

After an absence of three quarters of an hour, her Majesty's legal advisers returned to the House; and their Lordships having taken their places,

Mr. Denman resumed.—He would, he said, proceed to draw their Lordships' attention to the period to which he was alluding when they were good enough to allow him to retire from the bar for a short time. At that period her Royal Highness was about to carry into execution a design she had long formed for visiting the Archipelago, the Grecian Islands, the ruins of Athens, and Jerusalem. On that occasion she hired a polacre in Sicily, which carried her out to Jaffa, and afterwards brought her back to Italy. In the course of her journey to Jerusalem she was frequently obliged to rest in a tent, which was carried from place to place, for that purpose. She was, at this time, in a foreign land, surrounded by foreign attendants, exposed to danger from the uncivilized inhabitants—and, thus situated, she was reduced to considerable hardships—not imaginary hardships, proceeding from fear, but real and unavoidable difficulties. In the midst of those hardships she lived on what he would call terms of delightful familiarity with all those who accompanied her. In the course of the day, after the fatigues of the journey, which was performed in the night-time, were over, she rested under the tent to which he had just adverted; and his Learned Friends who supported the Bill had made it a prominent part of their case that she had reposed under the tent in one bed, whilst Bergami, in the same tent, reposed on another. This was one of those facts which illustrated, more clearly than another, the necessity of exercising that cau-



tion, in viewing this case, which he had endeavoured to infuse into their Lordships' minds; because it was quite clear that the fact might be stated in such a manner as to raise the suspicion of guilt in the first instance; but he thought it was equally clear, when the real state of the fact was made known, that, for this suspicion of guilt, not the smallest foundation in truth and honesty, could be pointed out. During the two days and a half in which this journey was performed Majochi told their Lordships that her Royal Highness and Bergami rested under this tent. But he had omitted a matter of great importance—he had omitted the essential fact, which other witnesses had spoken to—namely, that the Countess of Oldi was also under this tent, and that the child Victorine was almost constantly there. Majochi had likewise, in his direct examination, passed over another fact, which was afterwards disclosed in his cross-examination—the important fact that he, Majochi, and another servant, were in the habit of taking rest in a tent contiguous to that which her Royal Highness occupied, and which commanded a view of all that passed there. How long at a time she remained on horseback during this journey, Majochi, that honest witness, could not state. It might, he said, be two hours, or it might be many more. But the fact, as stated by Lieutenant Hownam, placed the circumstance in its true light. He had told their Lordships that her Royal Highness was very much fatigued by her exertions on this journey—that she wanted support to prevent her from falling from the animal on which she rode—that she proceeded with a great deal of labour and difficulty, and that, more than once, she had fallen asleep on her way: the consequence was, the moment the party encamped she retired to rest in the tent. Under these circumstances, was it possible that he should be called on to argue that this was not a case of adultery? Was it possible that one mind could be so uncharitable, so uncandid, so unjust, as to adhere merely to the words in which a fact might be related, while it lost sight of the *bonafide* meaning and intent of the transaction referred to? He defied an honest man to lay his hand on his heart, and having considered the circumstances, to say that adultery was committed on this journey by land. He should, he conceived, uselessly waste their Lordships' time by farther observations on this point. Not but that attempts had been made on the other side, by the introduction of other circumstances, to prove criminality here. But the failure of those attempts was evident; they only show that the facts were not sufficiently strong to sustain a criminal charge, and that the proofs advanced were not of such a nature as could induce their Lordships to come to the conclusion that a guilty intercourse had taken place.

Were the beds regularly made? or were they regularly prepared? that, he believed, was his Learned Friend's expression, to lead to a belief that what was undertaken by a regular preparation of beds, in matrimonial cases, occurred in that which they were now considering. But the preparation here was of a different kind. Though the beds were prepared, there were no bed-clothes, no curtains, no bed-linen. They were made in no sense like that in which his Learned Friends would wish their Lordships to suppose; and, beyond this, those two parties, who were said to have retired under a tent for a criminal purpose, lay at a distance from each other, clothed, entirely clothed—her Royal Highness throwing off her exterior habiliments, and putting on a green pelisse; and the other party throwing off his exterior habit, and putting on a blue dressing-gown: still with only this alteration, retaining precisely the same dress which each of them had worn during the journey. Miss De Mont had taken great pains to represent this undressing as it was called, in the strongest possible manner—she had endeavoured to show that this was proof of an improper intercourse between those two individuals. She had pointed them out as taking off their clothes, and retiring to a private place for adulterous purposes. But, from the whole of her cross-examination, it appeared that this daily encampment was conducted with as much innocence, with as much propriety, and with as much purity, as could distinguish the proceedings of any two individuals in the world, even if they reposed under separate roofs. He now came to the polacre; and he could assure their Lordships that it was with no small satisfaction he came to that part of the case; because he thought it was most perfectly clear that there was no more ground to suppose that any illicit connection had taken place before her Royal Highness embarked on board that polacre, than there was for any one of their Lordships to imagine that any female of his family, whom he had left at home that morning, had been guilty of such a crime, merely because she had an opportunity of doing so. If the whole of the scenes at Naples were negatived—if the foundation on which they rested were proved to be untenable—if it were not only made perfectly clear that the imputations raised on those facts were not borne out by them, but that base falsehoods had been uttered—that worst species of falsehood, which gave the appearance of truth to that which was known to be a lie: if that were the case, then he would contend that her Royal Highness set her foot on board the polacre without one single taint of suspicion as to any thing that occurred before—he meant with respect to the facts that were imputed to her Royal Highness as crimes. He alluded not to any supposed offence connected with the elab-



that of a party implicated—a subject on which, however, he would hereafter expand; observing only, at the present moment, that it was utterly impossible for their Lordships to argue, that the fact of that individual's elevation was alone sufficient to guide them in their decision; for if it were sufficient, there would have been no use in this protracted inquiry—there would have been no necessity for going into a statement of all that had happened while her Royal Highness was travelling; it would have been enough to have said, “this promotion has taken place—that circumstance is sufficient;” and it would have been wasting the time of their Lordships improperly, unnecessarily, and indecently, to enter into a detail of those facts which had been laid before the House. He had a right to say this of her Royal Highness, that if there were truth in argument, if there were justice in inference, her Royal Highness stepped on board that polacre without any cause for doubt, without any ground for suspicion. What the conduct of her Royal Highness was, after leaving the polacre, he would hereafter remark on; but, if their Lordships were satisfied that neither before her Royal Highness went on board the polacre, nor after she quitted it, there was any circumstance from which a fair and unprejudiced mind would draw an inference of guilt, then he called on them, in this important case of dethronement and degradation, where the evidence ought to be as clear and as conclusive as the facts were alarming and the punishment severe, to consider seriously, whether the mere possibility of criminality having existed on board the polacre should lead them to decide that this adulterous connexion was made out? The fitting up of the vessel took place while her Royal Highness was on shore: with that she had nothing to do. At first she slept in her cabin, according to the arrangement that had been previously made; but, in the course of the voyage home, very soon after her Royal Highness had gone on board, some of the horses, or other animals that were in the vessel, became troublesome, and on this account, as well as on account of the heat that was experienced below, her Royal Highness thought proper to take a station at night on the deck. Now, he would ask, if her Majesty had been the blind victim of a guilty passion for this man, was this the course she would have pursued? Was it to be believed that a circumstance of this nature—a trifling inconvenience—would induce her to stop the title of irresistible passion, to withdraw from his secret and secure embraces, in situations where no eye could behold what passed, and to transfer herself to the deck, subject to the observation of the captain, in the neighbourhood of the steersman, and

open to the remarks of every sailor in the vessel? Could it be supposed that she would, in such a situation, place herself under a tent, for the purpose of carrying on a guilty correspondence? A tent! O, no! any military officer who heard him would correct him and say, “This was not a close tent—it was not that close and small chamber, that confined and private recess, under which such acts could be performed. This was the fact. It was the awning of the deck, hanging loosely around, covering a large space—the bed of the Queen and that of Bergami, or rather the bed and sofa on which they rested, were placed at a distance from each other, and, what never should be forgotten, the hatchway was always open. This last fact was of the greatest importance—because, in the examination-in-chief of Majocchi, he said, that the tent was never open at night—that it was entirely closed, shut up; but it was extracted on cross-examination, and the fact was substantiated by other witnesses, that the hatchway was always open, and all who passed above, or below, or along the hatchway, could know what was doing. The parties were sleeping as in a camp on land. Could it be supposed, for one instant, that this awning could have been used for the purpose of an intercourse, which his Learned Friends inferred from circumstances which did not at all warrant it? They were told that this improper intercourse took place in the daytime, and that the awning was let down during the day. He knew not how to deal with this. If the awning was let down during day, what was it but a challenge to all to see he would not say the use made of it but it was an open exposure of the mode of lying in the beds, and of the purpose for which those beds were occupied by night as well as by day. The period during which her Majesty was in this situation was from the 20th of July to the 17th of August. During that time her Royal Highness was proved to have been extremely fatigued, and it was absolutely necessary, as Lieutenant Hownam had stated, that her Royal Highness should be attended by some person. By what person, then, both for convenience and for every necessary purpose, could she be more properly attended than by the chamberlain whom she had appointed to provide every attention and protection which her situation required. The whole time that her Royal Highness reposed there she had her clothes on; no time was found when the parties were not clothed. There was but one moment when it appeared that Bergami was positively under the tent, and then he was clothed. If this was a case in which he should have to say that the case on the other side was not made out according to the letter, he should say that it was never proved that Bergami had been under the tent at night. On occasion of a storm,

her Royal Highness was seen led down from the deck by Bergami on the one hand, and Lieut. Flynn on the other. As Flynn was known to have reposed elsewhere, there was great probability that Bergami had reposed under the tent. But of that there was no proof. However, the bed had then no clothes on, and Bergami was dressed. The inference attempted to be raised was, therefore, on that one occasion, completely negatived. In the constant use of the tent all was open and avowed; the light was given out, which was a most important circumstance, and distinctly proved; nothing was done that showed concealment or disguise of the fact; and all that appeared was, that this fatigued, unprotected, lady, but the boldest of the party, found it absolutely necessary that some male person should attend near her. Two and twenty sailors were on board, and passing and repassing at all hours; two watermen regularly relieving one another; there was a constant liability to be interrupted and observed by persons below; and on every side; and yet the only circumstance which appeared was, that Bergami had been actually under the tent on the occasion which he had stated, when two gentlemen conducted her Royal Highness from deck in consequence of the alarm. But, in the absence of direct proof, their Lordships had a specimen of the mode resorted to on the other side, to extort from witnesses opinions and beliefs from which an inference might possibly be made favourable to their object. Lieutenant Hownam, with the candour which belonged to a manly character, stated at once, when asked his belief, that Bergami did sleep under the tent. On this expression of belief being made by Lieutenant Hownam, they heard a triumphant echo from all parts of the town, and they heard a triumphant murmur from his Learned Friends, and all that had been believed, and all that had been admitted, were to be excluded, and they were to fix on this single and solitary fact, that Lieutenant Hownam believed both parties to have slept under the tent. What was he to say, if the counsel for the crown, in a case of the utmost gravity and importance, after having rested their *prima facie* case on the testimony of discarded servants, on the testimony of disgraced witnesses, on the testimony of profligate and wicked persons collected from all quarters—he would not say by what means—if, after having founded their *prima facie* case on such testimony, they then abandoned it all, and fixed on one belief, excluding all the rest out of that case of the highest criminal nature? This was conduct unheard of in the records of criminal justice. The question as to belief might have been objected to, because it was not evidence. It was proper only as a mode of trying the credit of the witness; and because the witness gave an answer which reflected the highest honour on

his credit, his Learned Friend founded on that answer the whole of their case. Lieutenant Hownam stated no mystery to be attached to the subject. He stated that it was necessary for her Royal Highness's protection that some male person should attend near her. He then stated that he considered it an degradation to her Royal Highness to be so attended. This opinion and belief he stated as strongly as the other. His Learned Friend who had had so much opportunity of knowing the private secrets of her Royal Highness's conduct and habits during the whole period embraced by the investigation, had not once got ground for criminal inference, but by dismembering the testimony of Lieutenant Hownam, and detailing his belief on one circumstance. He now came to offer some observations on the testimony of Lieutenant Flynn, who had not been called, as he ought to have been, on the other side, but by them; who had not been sought for by those to whom he could have given important information if they wished for truth, but by them who were obliged to repel falsehood and perjuries. Lieutenant Flynn, residing in Sicily without office, pension, or emolument from her Majesty, had not been sent for by the other side; but he saw in the public papers the fabrications and falsehoods set up against the Queen of England. He had not been hired at the rate of 100 guineas a month—had no prospect of rivalling the mate of the poleaxe; but this brave, gallant, honourable man came to support innocence against perjury; he came to the bar of their Lordships to bear testimony to the best of his recollection and belief, at the distance of time since the transactions inquired into had taken place. It was certain that he had never been in a court of justice before, and certainly no witness had ever been more affected by the dignity of the court, and the alarm that surrounded him. When he had been asked whether these copies he held in his hand were faithful copies, he said they were not faithful copies, meaning exactly that they were faithful copies. But certainly, a more nervous and more agitated man he had never seen in any court. He was asked his belief, and a more fair and clear account of belief had never been given, because the witness referred to the facts on which he founded his belief. He had been asked as to the situation of the beds from Syracuse to Jaffa, and he answered that Bergami's bed was in the dining-room. He was then asked as to the situation of the beds from Jaffa to Italy, and his answer was, "I don't know." The reason was plain, for her Majesty reposed then on deck. When Lieutenant Flynn passed through the dining-room to attend upon her Royal Highness, he had means of knowing that Bergami slept there, and though he actually saw him only once, he spoke to him behind the screen. A more satisfactory reason why he knew that he

slept there had never been known. But why not know where Bergami slept when returning from Jaffa? It was because he had not occasion to pass through the dining-room in waiting in the morning on the Queen. He was asked whether there had been no other distribution of the beds made? He answered "No, it was unnecessary; her Majesty did what she pleased with the sofa, and any other that had a bed on deck did the same. I had nothing to do with it." When he was asked as to his belief, he did not give a belief founded on rumour or scandal, on misrepresentation and falsehood. He did right in looking at facts, and said nothing that he was not justified in believing. No person could forget how this gallant officer was cross-examined. He did not undervalue the talents of the Solicitor-General, he held in the highest honour that greatest of legal talents that most important means of detecting falsehood which man could display, that best shield of slandered innocence—he meant that talent of cross-examination which was often found successful in dragging reluctant truth from its lurking places, in making a witness disclose what he was most anxious to conceal, and in displaying most conspicuously those important truths which were most sedulously withheld. But that sham cross-examination which was exercised in taking advantage of the alarm and agitation of a witness—though he honoured the talent of cross-examination which elicited important truth, he regarded with a very inferior degree of honour that sham cross-examination, either in its motives or in its consequences. A paper had been produced by this witness—a paper as immaterial, nay, far more immaterial than the Trieste journal which his Learned Friend had offered yesterday. The paper produced by Lieutenant Flynn was perfectly immaterial, whether it existed or not. It was only a statement of dates and places. The witness believing that it would be necessary for him to have those dates and places, made his clerk transcribe them. On coming to England he found the papers ill written, and words so ill spelled as to be unfit for use. He therefore got Count Schiavini to make another. The dates were proved by other witnesses, and he (Mr. Denman,) believed that the dates in the paper alluded to were not found to differ from those given by any other witness. His Learned Friend (the Solicitor-General) by his powers of mind, by his great powers of countenance, and by his talent in cross-examination, had in the case of this witness got, what, if the paper and its contents were important, might lead to an inference most unfavourable to the credit of the witness; but what, unimportant, perfectly unimportant and immaterial, as the paper was, led only to the conclusion that he was entirely overcome by his own agitation and

alarm. The greatest men in the field were known to be nervous and agitated on occasions foreign to their profession. But never had a more complete illustration been given than in this instance of the power of the gown over military prowess.—*Cidant arma togæ.* But no man could disbelieve the general effect of his testimony; no man, after the evidence of Lieuts. Hownam and Flynn, could for a moment give credit to the indecent exposures sworn to by the captain and the mate. Here again the evidence was broken down under the Attorney-General: he had detailed a most licentious course of proceeding on the part of Bergami, who was said on the voyage from Jaffa to have made most disgusting exhibitions of his person before the Queen. His own witness had contradicted him, for the captain only called them apish tricks, and Lieutenant Hownam distinctly proved that those apish tricks amounted only to this—that Bergami, to imitate and ridicule some portly and pompous personage, had put some cushions under his waistcoat. Yet this was to be brought in aid of the kissing and embracing, and all the other disgusting trash which was to give a colour to this proceedings. The just conclusion from all that had appeared in evidence regarding the tent was this—that if the Queen and Bergami had intended to commit adultery, they would have kept below, and would have taken especial care that no man should see them together under the tent on deck even in the day time, as the moral captain and his blushing mate had ventured to depose. It was not immaterial to reflect that this tent scene on board the pulcre was the last rag that yet remained to cover the filthy deformity of the case in support of the Bill. If it were clearly shown that there was nothing in the conduct of the Queen before or after this incident that could merit censure even from the most rigid moralist, was it possible for the House to believe that on this occasion, and no other, an adulterous intercourse had taken place? On the contrary, if no such facts had been opened as the disgusting exhibitions by the Ottomanite, the indecencies with the statues in the garden, the dresses at the masked ball, and the visit to the theatre St. Carlos, the House would have not permitted such a case to be brought forward; and would not any judge, if it had been a trial in our courts, have declared it wholly unworthy the attention of a jury? Let it be recollected that their Lordships were now trying the highest subject of the realm for the highest crime a subject could commit. It was their duty to allow no middle course—no disgraceful compromise between their duty and their inclination. They were not to receive light evidence under the supposition that the punishment was light. The punishment was not light; it was the heaviest that could be inflicted on a Queen.

For his own part, without any exaggerated sentiment, which perhaps in an advocate might be allowed, he might say that he would rather see his royal mistress tried at the bar, like Anne Bulleyn, for her life, than in the more perilous situation in which the Queen now stood. He would much rather have to hand her to the scaffold, where she would have to lay her august head upon the block with all the firmness and magnanimity belonging to her illustrious family, than witness her condemnation under the present charges, which would render her an object indeed of general pity, but of more general scorn to be looked upon only as one who was entitled to compassion, having fallen by the misconduct of those who afterwards brought her to punishment, but at the same time to be regarded as a most deplorable instance of degraded rank and ruined character. The House was bound therefore to try the Queen as if the commission of an act of high treason on board the palace had been charged, and, thus viewing it, what would be the language of any judge regarding a prisoner, who, having by the evidence been acquitted of a great number of false and important charges, was at last accused of one single and comparatively insignificant offence—would not the judge declare on the instant, in a case like the present, that no proof existed of criminal intercourse—that the main fact had been disproved—that though the parties had perhaps been shown together in the tent, and though there might be a surmise or possibility of guilt, because one of the witnesses had hinted at such a situation, yet that all criminal intent was negatived, and that the excuse for the situation was given under the same oath that had sworn to it. A judge who, under such circumstances, did not declare that a prisoner ought to be instantly acquitted, would deserve to be impeached at the bar of this house for a gross and infamous dereliction of his duty. Was he again to go back to the bath—again to enter into the fables of Majochi and De Mont, who in this instance only had vouched for each other? The question was, where was the bath. One stated it to be in one room, and another in another; but afterwards it appeared to have been in the cabin; and the Chamberlain, their Lordships would probably think, did no more than his duty, in preparing the water, and feeling its temperature: it was merely ridiculous to suppose that he stayed to be present at the operation. Where facts rested upon the testimony of these two witnesses, they were wholly to be discredited, and the house was bound to consider the full contradiction they had received. Had any matter of crimination existed on the part of the Queen, so advantageous a witness to support it had never been brought into Court as Lieutenant How-

nam. He joined her Majesty at Genoa when the supposed passion was at its height, and he had continued with her for about three years, during which he must have been well acquainted with whatever criminal acts his royal mistress had committed. The other side had had an opportunity of cross-examining him, after torturing his belief on subjects of every description: and though they pretended to prove acts of indecent familiarity by two or three maçons, two or three white-washers, and two or three discarded servants, they had not ventured even to suggest to Lieutenant Hownam any occasions when such scenes, if they existed, must inevitably have passed before him. Both he and Lieutenant Flynn gave the most decisive contradiction to all that was sworn by those much relied on witnesses, Gariglio and Paturzo. He would now notice the evidence that related to the Villa d'Este; first, however, as his Learned Friend reminded him, saying a few words regarding the embrace which the Queen was said to have given Bergami when he went on shore at Terracina, after the tedious voyage, to prevent the necessity of observing quarantine. All that was proved was, that Majochi being below deck, the Princess had thought proper to have him for a witness of the kiss she allowed Bergami to give upon her lips. Majochi had taken care, that nobody else should be present, that he might not be contradicted; but still his falsehood had its foundation in a germ of truth, because all the witnesses agreed that Bergami kissed the hand of the Princess upon deck when he took his departure, which was no more than the rest of the suite were in the habit of doing on similar occasions. He had by accident passed over another kiss—the kiss on Bergami's visit to Messina, about a mile from the dwelling of the Princess, to make some purchases. Majochi had thought fit to swear, that on parting on this distant expedition here again was a most affectionate leave-taking, at which he alone was present. However De Mont thought it right on this point to give her friend some slight confirmation, and accordingly she said, that there had been some kissing at their parting, but that her back was turned, and she could not tell whether the kiss was given on the hand or on the face. The truth, no doubt, was that her Royal Highness had given her hand, that her chamberlain might receive the ordinary token of regard. It would be a waste of time to dwell longer on these potty incidents, and he would proceed therefore to the Villa d'Este, where that valuable member of society, and gallant officer in the army of Napoleon, M. Sacchi, was first taken into the service of the Princess. It was observable that the house had had two discarded servants, Majochi and De Mont; to prove transactions before the tent scene in the palace;



and two other discarded servants, Sacchi and Rustelli, to speak to events subsequent to it—to establish the most disgraceful facts that ever polluted the lips of man, and which he (Mr. Denman) should have thought no husband of the slightest feeling would have permitted to have been given in evidence against his wife, if she had deserted his fond and affectionate embraces, much less if he had driven her into guilt by thrusting her from his dwelling; recollecting that the more depraved he showed his wife to be, the more he established his own cruelty and prodigality; and the more imputations he cast upon her, the more he was to be despised for having deserted and abandoned her. He had heard examples supposed to be similar to the present quoted from English history, but he knew of no example in any history of a Christian King who had thought himself at liberty to divorce his wife for any misconduct, when his own misconduct in the first instance was the occasion of her fall. He had, however, found in some degree a parallel in the history of Imperial Rome, and it was the only case in the annals of any nation which appeared to bear a close resemblance to the present proceeding. Scarcely had Octavia become the wife of Nero, when almost on the day of marriage she became also the object of his disgust and aversion.—She was repudiated and dismissed on a false and frivolous pretext. A mistress was received into her place, and before long she was even banished from the dwelling of her husband. A conspiracy was set on foot against her honour, to impute to her a licentious amour with a slave and it was stated by the great historian of corrupted Rome, that on that occasion some of her servants were induced, not by bribes but by tortures, to depose to facts injurious to her reputation: but the greater number persisted in faithfully maintaining her innocence. It seemed that though the people were convinced of her purity, the prosecutor persevered in asserting her guilt, and finally banished her from Rome. Her return was like a flood. The generous people received her with those feelings which ought to have existed in the heart of her husband. But a second conspiracy was afterwards attempted, and in the course of that inquiry she was convicted and condemned. She was banished to an island in the Mediterranean, where the only act of mercy shown to her was putting an end to her sufferings by poison or the dagger. In the words of Tacitus, “Non alia exsul visentium oculos majore misericordia affecit. Meminerant adhuc quidam Agrippinæ a Tiberio; recentior Julię memoria observabatur, Claudio pulsæ. Sed illis robur ætatis amuerat; læta aliqua viderant, et presentem sævitiam melioris olim fortunæ recordatione allevabant. Hunc primon

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“nuptiarum dies loco funeris fuit, deductas in domum, in qua nihil nisi luctuosum haberet.” The death of her father and her brother had deprived her of her natural protector who might have stood between her and misery, “sum ancilla domina validior; et Poppœa non nisi in perniciem uxoris nupta; postremo crimen omni exitio gravius.” The Princess of Wales had left this country after the first conspiracy had been attempted and had failed; her illustrious friends—those who had basked in the splendour of her noon tide rays—had then deserted her. Soon afterwards rumour and reports of the most afflicting kind prevailed, and those rumours and reports at length assumed something of a tangible shape, and her Majesty has been called upon to grapple with them as substantial charges, and he hoped that she had shown that they were utterly unfounded. In that situation, however, she had been deprived of her only daughter; that unhappy child was removed from the means of longer protecting her afflicted mother. In that fatal month, which blasted the hopes of England, November, 1817, it so happened that every one of the material witnesses in this case had been discharged from the service of the Princess.—It was then that De Mont was sent away with all her valued secrets; it was then that Majocchi was turned away with all his fearful proofs, of he knew not how many kisses, and in the same month those two special gentlemen, Messrs. Sacchi and Rustelli, had been deprived of their situations. Thus this illustrious lady, who was supposed to have sinned with so much boldness, and to have loved with such extraordinary enthusiasm, had ventured to turn loose upon the world the four individuals most capable of proving the case against her, and of reducing her to the lowest stage of disgrace and misery. They were discarded servants, and he would say so, though in those all phrases became hacknied in the mouths of men; yet if after the lapse of six years such testimony was to be received, he would appeal to the House in what situation human society would be placed. Reference had been made on former occasions to that Bill, which had for its object to make adultery a crime. The draft of it was still preserved in the archives of Parliament, and excluded from the right of complaining of every husband who had colluded with, connived at, or permitted the offence of his wife. In the debates on that measure it was admitted on all hands, that it was fit that adultery should be considered a crime; but it was also held that it was far more unfit that such an encouragement to perjury—such a premium to malignity—should be held out to discarded servants. Adultery was unquestionably criminal in various degrees, but most especially so when the conduct of the husband had been



unimpeachable; but when he had been guilty of immoral practices, when he had committed some flagrant breach of his duty, the feelings of mankind would never accord with the condemnation of a wife. He (Mr. Denman) never could reflect upon the condition of discarded servants, with reference to the matter now before the House, without remembering the speech of the immortal Burke where he directed the fire of his eloquence against spies in general, but especially against domestic spies: he said that by them "the seeds of destruction are sown in civil intercourse and happiness; the blood of wholesome kindred is affected; our tables and our beds are surrounded with snares, and all the means given by Providence to make life safe and comfortable, are converted into instruments of terror and alarm." Discarded servants had it in their power at all times to depose to facts on which they could not be contradicted. If any man should dare to swear that the noble consort of one of their Lordships had got out of her bed in the middle of the night, unseen but through the keyhole or the crevice of a door, and crept to the bed of a domestic, how was it possible to contradict such a witness who had been dismissed, notwithstanding his possession of a secret so fatal, but by the general purity of the character of the illustrious accused, and by the malice of the accuser betraying itself in the very foulness of his charge? One of the servants in the case of the witness to whom he had already alluded, being questioned upon subjects of this foul and filthy description by one of the persons who had attempted to suborn her, had given him an answer full of female spirit and virtuous indignation—an answer which he preferred to give in the original, because he was unwilling to diminish its force, and because being less known the coarseness would be less understood:—

*Καταγενομένη, η Τριγύλλος το αυτον ε διερωτα με  
τις αυ γενομενος ιχθυ.*

To such discarded suborners as Sacchi and Rastelli might this answer be applied. Sacchi had talked a great deal about his being a soldier and a gentleman: he had received the reward of his fidelity on the field of battle, and one of the first proofs he gave that he deserved it was coming forward to betray his mistress. What mighty distinction was there between treachery and perjury—between the man who betrayed truths that had come to his knowledge in the excess of confident reliance, and the man who would invent them for the sake of a base reward? The witness who was summoned to an English court of justice was bound by his oath to disclose the truth, and the whole truth; but why upon this occasion had Sacchi made his appearance? Because he had been bribed to give his evidence. He had received no summons, no subpoena, and no force had been necessary to

compel him; he was a volunteer in iniquity, but not for its own sake, but for the most base and sordid purposes, and was equally infamous, whether he came to disclose the real secrets of his mistress, or to perjure himself by the assertion of what was false. The greatest of all traitors—the first apostate to Christianity and human nature—was not forsworn: he only came to betray his master; yet the execrations of mankind had followed him from that moment to the present. He (Mr. Denman) always thought of this great prototype of treachery and infamy when he saw such a witness as Sacchi advance the Bible to his lips, ready, like Judas, to betray God and man at once with the same blaspheming kiss. Sacchi was discharged in November, 1817, with all these dreadful secrets, if he were to be believed, in his possession, and at that period it might be said that the conspiracy against her Majesty was already formed. If at that time there had been no Ompteda, no Milan commission, and if the Queen, instead of being expelled from her home, had left it for her own convenience and pleasure, yet even then the conspiracy was formed and was sure of being carried into effect. But as there was a period when corruption takes place in the human heart, so there may be a moment of repentance; and, fortunately, Louisa De Mont disqualified herself as a witness, by pronouncing in favour of her mistress one of the most cordial and excellent panegyrics that ever proceeded from a servant. With that unequivocal testimony staring them in the face, it was impossible not only to believe a word that she had sworn in contradiction of herself but a word that any of the other witnesses had deposed against the Queen.—It was, indeed, a most happy circumstance, that this female, who afterwards, by the persuasion of her paramour Sacchi, was induced to appear in the shattered ranks of the enemy, had thus destroyed her own and the evidence of her compeers. It was needless to refer to the precise terms of her letter, written under circumstances which incontrovertibly proved that she must have been sincere; she there spoke of her family and her sisters, whom she wished to recommend to the notice and protection of her Majesty. If, indeed, what she had sworn at the bar were true, would she have been so anxious to introduce her innocent relatives to a receptacle of vice and debauchery? Impossible! Human nature could not be so depraved, so lost to all sense of decency and virtue. It was by no means immaterial to call the attention of their Lordships to what passed yesterday, when an elderly person from the same neighbourhood of this chambermaid, who had seen in all the papers, to the disgrace of the age, these scandalous proceedings, and had marked the rare inconsistency of the testimony, and the declarations of De Mont, had come forward to de-

pose to the fact. What could be more proper or more natural; for De Mont's declarations were in all respects consistent with her letters, and those letters alone were an acquittal of her Majesty. He positively declared, that if such a witness, with such means of knowledge, had so expressed herself in the box on a trial on a charge of this description, her evidence must have procured the instant discharge of the accused from all imputation. When a witness was thus opposed to herself—when one point of her conduct so diametrically contradicted the other—surely the most rational mode of proceeding was to consider the motives that might have operated upon her mind to produce a change, and to impel her to abandon truth. Upon this point it was not necessary for him to enlarge. When the counsel for the Queen had been challenged to produce this witness and that witness, it was impossible for any man not to reflect that she had been surrounded by dangers of every kind. He would ask, if her Majesty had been accused, only two years ago, of the crimes now laid to her charge, she could look to any creature for a defence and protection with more assurance than to the writer of those passionate letters? Yet at this moment she was one of the principal persons brought forward to destroy that character, and sully that virtue, which she had again and again acknowledged. This of itself was a marvellous lesson, and a most singular and providential proof of the necessity of over-ruling the unsuspecting confidence of the Queen. On this account it became necessary for her Counsel to take the defence into their own hands, and to determine where no cause was proved, not to meet imaginary evidence, but to content themselves with clearing her Majesty from all that had a shadow of testimony to support it. They held it unwise to expose her innocence to the possible treachery of the sister of De Mont, or to submit that sister to the perils of a cross-examination. Some little forgetfulness—some trifling slip—some unconscious error on a point that had nothing to do with the real merits of the defence, might give the other side an important advantage over a weak and timorous female. For this reason he trusted that the law advisers of her Majesty would stand excused to all mankind for resting the defence of their illustrious client on such evidence as would have satisfied the utmost severity of a court of justice. Perhaps too great a compliment had been already paid to the case in accusation by the production of any evidence to meet it; for had the question been agitated elsewhere, a judge might have been called upon after the prosecution had closed to direct an acquittal. They had all felt it, and only the remarkable nature of the case had induced them to deviate from the course

they should otherwise have pursued. But as there was no end to human incredulity, the Attorney-General would no doubt make many acute observations on the absence of witnesses for the Queen. He would ask where is the sister of De Mont, Marietta, and some dozen of servants who have been called, and who, by possibility in the perplexity, irritation, and confusion of a cross-examination, might be entrapped into some trivial mistake. Of this the House had already had some experience. What a triumph had been proclaimed on the production of a piece of paper by Lieut. Flynn, which was not of the slightest use, but which, it was asserted, had covered him with everlasting infamy. It was curious to look at the cross-examination of this brave officer: the last question, after which he was dismissed as if unworthy of further interrogatories, had reference to the paper he had produced: it was, "Did you not say that it was your hand-writing?" In fact, he had never said so; but it was put into his mouth as if he had, and the witness incautiously adopted it. It then became utterly impossible for him to deny it, though he might fairly enough reply, "If I did say so, it was because I was in such a state that I could not give my attention fairly to the question." With this experience before their eyes—with this example of Lieut. Flynn, who in all the government newspapers was said to have destroyed a wretched cause by his still more wretched failure, in their recollection it seemed to him that his learned coadjutors had exercised a sound discretion in not calling further evidence. They had thought that after the proofs—the undeniable proofs—they had already given of her Majesty's innocence, they should do wrong to expose nervous females to the hazard of a cross-examination—when nothing was wanted for the defence, and every little point extorted was important to the prosecution.

The Learned Counsel was about to proceed to some other parts of the case, when he was interrupted by the EARL of LIVERPOOL, who moved the adjournment, observing that it was now past the usual hour.—Adjourned at 4 o'clock.

### House of Lords,

WEDNESDAY, OCTOBER 25, 1820.

The LORD-CHANCELLOR having taken his seat, after the usual formalities the counsel were called.

Mr. Denman resumed his speech—He was now naturally brought to that part of his address to their Lordships in which he had to trace the cause of an event which formed an important feature in these proceedings—he meant the engagement of that individual into the service of her Majesty

whose name had been so much dwelt on at the bar, and so frequently mentioned by their Lordships. That engagement took place in October 1814; and, upon reviewing the circumstances under which it was made, he thought it was impossible for any person to have entered into the service of a royal person with a better prospect and more encouraging hopes of that promotion which followed. Their Lordships would see, on reference to Mr. Craven's evidence, page 533, that Bergami was engaged by the Princess of Wales in consequence of an extraordinary recommendation from the Marquis Gizilleghiri, the Grand Chamberlain of the Emperor of Austria, who had long known him and his family. It appeared, also, from the evidence of Sir William Gell, that the Marquis not only treated Bergami on a footing of equality, but that he recommended Bergami to her Royal Highness as a person to be depended upon for honour and fidelity; as one, also, who at that eventful period had suffered in his fortune. His family, formerly of consideration, had fallen into distress from the circumstances of the revolutions and changes in the French government, and was then reduced. This was expressly stated by Sir William Gell, as their Lordships would find in page 549 of the minutes; Sir William farther stated, that the Marquis treated Bergami with the highest distinction, and that he saluted him as an intimate friend. At this their Lordships certainly could not be surprised when they afterwards found Colonel Ollivieri, and other persons of unquestionable respectability, speaking of him in terms of eulogium. But he was not defending Bergami; all that he had to do was to show that the allegations respecting his entrance into the service of her Royal Highness were untrue; and the mode in which he had been introduced was alone important in that respect. He thought it was impossible to advert to that mode, to all the circumstances connected with his introduction, without perceiving that Baron Bergami was such a person as any employer would be glad to receive, and the employment of whom it was proper to advise, and without being ready to acknowledge that there was nothing extraordinary in the promotion which in the course of the following 12 months had taken place. Here it might not be improper to observe, that a courier of a Royal person is not considered a menial servant; and that the dress which belongs to that station in such a service is not a livery. However, Bergami was, in the course of the year after he was engaged, promoted to the situation of page, and he believed in the same year received the key of chamberlain. Now, he did not mean to deny that it would have been advisable for her Royal Highness to have appointed to the station of chamberlain some

person of rank and distinction from this country. If such a person could have been found at the time. But when the motives of her Royal Highness for engaging Bergami were made the subject of discussion, he would ask what right, what hope, she could have at that period of obtaining the service of any English person of distinction? How could she expect that such a person would like to incur the displeasure of the Court at home, for the sake of entering into her service? Her Royal Highness could not expect Mr. Craven to remain in her service, because he had stipulated to attend her only for a period, as his affairs would permit; and Sir William Gell left her, his health did not permit him to accompany her Royal Highness on her travels. She was, then, after these gentlemen quitted her service, left without the means of supplying the office of chamberlain by any person of rank from this country; and under these circumstances, and with the recommendations she had received of Bergami, he would ask whether it was possible she could have done better than to bind to her service by a judicious promotion a man of honour and courage? To give honourable distinction by their favours was one of the proudest prerogatives which royal personages possessed. Their Lordships would understand he did not mean that constitutional honours were so conveyed; but this would surely be admitted—that any individual who is once introduced to the notice of a Royal personage, and obtains a share of the Royal favour, becomes, at least with respect to all others who attend on that Royal personage, a person of distinction. He would not ask whether Captain Pechell had exercised a right judgment in refusing to sit at table with Bergami. Perhaps it might be thought right by many; at any rate he was right in acting on his own judgment, such as it was. But this he would say—that no person could suffer, in the opinion of the world, by entering into society with a person whom any Royal individual honoured with notice and distinction. Besides, it had been proved that it was thought necessary that her Majesty should have a guard; and their Lordships would recollect what had been proved respecting the placing Bergami near her Royal Highness. M. Sicard had stated that the cabinet to which Bergami was removed, at Naples, opened into the garden; that he thought it necessary to have Bergami there; and without the smallest notice being given to her Royal Highness, and without any communication or any knowledge whatever on her part, Bergami was removed from the room in which he slept, and placed in that cabinet. It was most important that her Majesty should have near her a person whose fidelity could be relied on; for no man who read the evidence could for a moment doubt that her Majesty was at this time surrounded

by spies, and that there was reason to apprehend that her personal safety was in danger. But, if there should be any difference of opinion on that point, at least this was clear—that her Royal Highness was impressed with a belief to this effect. Now, when Bergami had honestly discharged the service in which he had been employed, could any thing be more natural than that he should have been promoted from the honourable office of page, to the still more confidential one of chamberlain? Bergami had qualifications which particularly fitted him for the office. Among others, he had been in the habit of keeping accounts. And when his Learned Friend asked so emphatically what could be the cause of Bergami's promotion, he would request their Lordships, from their own experience, to reflect whether this was not likely to form a considerable recommendation with any royal person in the situation of the Princess of Wales? whether that sole merit of honestly adjusting accounts, regulating the details of expenditure, and saving her Royal Highness the trouble of attending to those affairs, would not be, to a royal individual so situated as the Princess of Wales was, a very strong reason for conferring favour and distinction on such a man as Bergami? It was also to be recollected, that at the time of this appointment, Sicard left her Royal Highness because pecuniary affairs called him to England. It was therefore quite natural, after Sicard had left her Royal Highness, that Bergami should be selected for managing the accounts, and that he should be promoted to the situation of chamberlain—an office for which Sicard, with all his good qualities, was not properly qualified. There was likely to be a considerable difference in point of qualification between a man who had been in military society, and who had been accustomed to hold intercourse with persons of rank, and one who, however respectable, had been in a station, the manners of which were likely to hang about a man through life. Sicard could not have been introduced into society as a chamberlain in the same way as Bergami: but when this individual was honoured with the superintendence of her Royal Highness's household, he became, as might be expected, an object of envy with others. When he took upon himself the hiring and dismissing of servants, it was likely, if he studied the interest of his mistress, that he should raise up a host of enemies against himself; and accordingly, not one of the servants employed, who had been examined, but had some complaint to make—either that his wages were lowered, or that he had not received as much as he had expected. In short, it appeared that the servants had constant disputes with Bergami or his brother; and to all the other motives of irritation was to be added, that of jealousy at the sudden promo-

tion of Bergami to an office which each of the other servants probably thought themselves equally capable of filling. But when their Lordships considered the circumstances under which this person had been promoted, and the manner in which he had discharged the duties of his station, he would ask whether there was any chance that her Royal Highness could have made a better selection? It appeared that Bergami had filled the office of chamberlain with fidelity and propriety, and when he was promoted, her Royal Highness could have no hope that any individual of rank would take it, or that she could have the opportunity of offering it to any other person equally fit for the office. In making that appointment therefore, she had acted with propriety as well as generosity. But it appeared that the virtuous feelings of this exalted lady were all to be made a foundation for drawing unjust and injurious conclusions. Among her great misfortunes, it was not the least that her very virtues were malignantly converted into crimes: her love for little children had thus been made a ground for calumny. At Genoa the child Victorine was thrown in her Majesty's way, and which did not appear to have been represented as the child of a married man, as had been erroneously stated, but as a natural child in need of protection. What then was more natural—considering the well-known character of her Royal Highness for kindness and humanity—than that she should take this child under her protection, and feel for it all the affection of a mother? A similar circumstance in 1806 had led to an inquiry like the present—an inquiry which, he would admit, might then be very proper, because there was the possibility of the succession being endangered, which could not happen now. But if the services of Bergami were such as to render him worthy of being promoted to the situation of chamberlain—if he was qualified for that situation, nothing was more proper, nothing could be a more complete contradiction of any guilty motive, than that that promotion should be made openly and publicly. It was a necessary consequence of that promotion that the individual who filled the office should appear among persons of rank and distinction, and that he should be presented in his proper character to all visitors. What would have been said if he had still been treated in the same manner as he had been when he filled the inferior situation of conrier? What would have been said if, instead of appearing to discharge the duties of his office, he had seen no company, but skulked in the kitchen?—Would not those who now complain of his sitting at the table of her Royal Highness have said that that was the proof of a guilty passion? What would have been said if her Royal Highness had acted thus on board the *Leviathan*?



What would have been said if, when she went a second time on board of Captain Pechell's ship, she had dismissed Bergami from her table? If she had been disposed to maintain a guilty intercourse, she would have said to him, "We must not let Captain Pechell see our intimacy; we can enjoy in secret stolen hours of lust, but we must not show in the presence of English witnesses that familiarity which we are not afraid to exhibit before Italian servants."—Such would have been her language and conduct had she carried on the intercourse attributed to her. He would therefore maintain that her Majesty's conduct and treatment of Bergami, so far from being a presumption of guilt, afforded the strongest evidence of innocence, and he would ask whether in this instance the course she had pursued was not that which an innocent person would naturally have adopted? But we are told that her Majesty conferred, and promised to confer, titles and honour upon Bergami, and this is made a matter of charge against her. It was true he had become the Baron of Francini. But their Lordships well knew that the baronies of Italy and Sicily were different in effect from those the possession of which could be traced back to the field of Runnymede, and the heroic periods of our early history. Titles in those countries were to be purchased at a small expence.—A few hundreds of livres would create a marquis, and the absence of titles in those countries to a man's name was rather considered as a negative of rank than the possession of them a distinction of real honour, or importance; and if her Royal Highness was to elevate Bergami to the rank of the principal officer of her household, it was necessary that she should obtain for him some distinction of this kind.—Besides, their Lordships must be aware that the application of titles was not so strictly regular in the countries on the continent, except, perhaps Spain, as in this. Titles were very liberally lavished on English gentlemen abroad. Most of his Learned Friends, as well as himself, had been addressed in letters abroad by the title of *my lord*; and his friend, Mr. Vizard, her Majesty's solicitor had in the course of the proceedings been addressed under the title of "Count" by a volunteer witness, who wished to give evidence in favour of the Queen; and to this offer the applicant added a request, that apartments might be provided for him by Count Vizard, at a hotel as near as possible to his Lordship's palace.—(Laughter.)—Another great crime of Bergami's was his having introduced his relatives into the service of her Royal Highness. He could conceive nothing more natural in the conduct of a prudent and faithful person, like Bergami. It did not appear that even down to the present moment her Majesty had any

knowledge of the fact, that the stable-boy and other persons employed in menial capacities were the relations of Bergami: and if they had been placed in those situations by the chamberlain alone, it had been very properly done. But if there had been no mystery, no concealment in the appointment of Bergami himself—if that appointment were made, as he contended it was, prudently and properly—what became of the questions of his Learned Friend on that subject; He now came to the period he had formerly alluded to—namely, that between her Royal Highness leaving Naples and embarking on board the polacre. Bergami had then become chamberlain, and it was his duty to attend on the person of her Royal Highness by night and by day. It was, therefore, too much for his Learned Friends to fix on this fact alone, and draw from it the consequences they had attempted to deduce. He would now take the liberty of alluding to this polacre, more especially as he had not done justice to that part of the case yesterday, and because there was a witness who had attempted, as far as vague allusions could accomplish, to prove the fact of adulterous intercourse on board of this polacre, and to fix the precise time at which it took place. That witness was no other than Majocchi. It was not thought sufficient by this man, that from the position of the sofas, and the situation of the tent, he should infer the fact; but he was brought to depose to his actual knowledge of its having taken place. Their Lordships would see his testimony on this point at page 26 of the minutes. He stated that he had heard a noise which resembled the creaking of a bed; and then, with the ready talent for mimicry for which he was so notorious, he had imitated the noise, from which their Lordships were to infer that a criminal connexion had at that time taken place. That was an instance of the powers of his ear, only to be equalled by the wonderful capacity of his eyes in the description which he had given of the scene at Naples, where, between sleeping and waking, he had observed her Royal Highness pass through his room to go to the chamber of Bergami; and in this instance he had heard noises through the deck. And from such evidence their Lordships were called upon to infer that the connexion had taken place. But, to look a little more particularly at the evidence, it was unfortunate that Majocchi had stated that there was a sofa in the cabin where he slept; from the evidence of Paturzo (page 509) it appeared he slept in the hold under the cabin, where there was a hammock regularly slung for him, and therefore there was a strong probability that he slept there, and not in the cabin. But when he talks of a sofa it is necessary to look a little at Lieutenant Hownam's evidence.—



From what that officer stated, it appeared that there were only four sofas on board, two of which were lashed together in the Princess's room, and two were placed in the Countess Oldi's room, so that he must have got to one of these cabins, taken the sofa out, and placed it over his head, in order to hear those sounds of which he spoke. This was a twin fact, as relating to hearing, to the one of eye-sight, which he had attempted to prove at Naples: and it was the only fact he spoke to, for there he had not attempted to state that any of those indecencies had taken place which had been witnessed elsewhere. He had yesterday alluded to Lieutenant Hownam's belief that Bergami slept under the tent, and he should now advert to the opinion of Captain Flynn, who, on the contrary, supposed that Bergami had slept below on the voyage from Jaffa. In that supposition there was great probability, for it was corroborated by Paturzo's evidence, which their Lordships would find in page 109. Being asked where Bergami slept during the voyage from Jaffa, he said there were two beds under the tent; and when the tent was open Bergami was on the small bed, and the Princess on the sofa: but that, when the tent was closed he had no communication with that part of the ship, and therefore he did not know. He was then asked—"Where were the beds placed during the voyage from Jaffa, which the Princess and Bergami used, as described by you in the voyage from Tunis?" His answer was—"On the sofa there was nothing else but a mattress of the Princess, which was doubled, and the other mattresses of the Princess were placed upon the bed, where they had been placed at the beginning, below." The witness was afterwards asked a question, to which he requested their Lordships' particular attention: it was this—"You stated that the further part of the cabin was divided into two; in one of the rooms so formed slept the Princess, and in the other the Countess of Oldi; and the bed of Bergami was placed in the dining-room: where were those two beds placed during the voyage from Jaffa?" To this Paturzo answered, "The bed of the Princess remained there where it was; as to the bed of Bergami, when he got up it was rolled up, for they had other things—their luggage; for the bed of Bergami had not a bedstead, but was put down on the planks of the corridor, and it was rolled up in the morning; but I never have paid attention to see whether the bed was there or not there." Now all this was perfectly consistent with what Capt. Flynn had stated, who understood that the same arrangement prevailed with respect to the beds on the voyage from Jaffa as on the outward voyage. But there was another witness whose deposition corroborated this suspicion, and whose testimony would doubtless be allowed to have

some weight with the other side—he meant Mademoiselle De Mont. At page 292 of the minutes it appeared that the witness was asked—"What became of the bed that Bergami had occupied in the dining-room?" His answer was, "I do not recollect." From this he inferred that the bed was occupied by Bergami; that the arrangements made on the preceding voyage with respect to his bed continued during the voyage from Jaffa. It would be going a great length to infer, from all that had been stated in evidence, that Bergami slept every night under the tent. Their Lordships had heard what Lieutenant Hownam had stated on that subject; but he knew nothing of the matter except from hearsay. He had only stated what he heard from other persons. It was therefore natural to suppose that when the weather was fair her Majesty had her female attendants with her in the tent; but that when any alarm arose in consequence of squally weather, or when danger was apprehended from the crew—a circumstance very likely to take place in those seas—it was likely that she would then be attended by some of the male part of her suite, and more particularly by her chamberlain, whose duty it was to assist and protect her in danger. It had been asked of Lieut. Hownam whether he did not conceive that Capt. Flynn and himself, being seamen, would not have been a better protection for her Majesty than a landsman? To which that officer answered with the characteristic spirit of his profession, "I hope we should:" but it was also in evidence that these officers were liable to be called up in the night on every squall that occurred, and of course might have been obliged to leave her Royal Highness at the moment when their assistance was most wanted. It was necessary not merely that there should be individuals ready to obey the call of her Royal Highness at any time, but that there should be also individuals ready to obey her call at all times when she might want assistance. It was in evidence that her Royal Highness had never pulled off her clothes, either by night or day, for the purpose of reposing. It was true that she might have changed them; every other individual in her suite had done the same; but there was not a tittle of evidence to prove that she had ever pulled them off; and therefore, though, as Lieutenant Hownam had said, somebody might have slept upon the bedstead that was at right angles with the sofa, there was nothing to prove that Bergami had not slept below in the dining-cabin. The next point on which it became his duty to advert was the statement made by his Learned Friends on the opposite side with regard to the bath in the dining-cabin. If he could show that, as they had described it, the circumstance was impossible—that the testimony of Majochi regarding it had

been afterwards contradicted by the testimony given by De Mont—that her testimony, credible on no other point, was credible on that, because it proved a mathematical fact—he thought that he should show sufficient to convince their Lordships that no reliance ought to be placed upon that statement. The testimony of De Mont upon this point deserved the attention of their Lordships, because it would be quite ridiculous to suppose, after what they had heard from her, that she would be anxious to invent a circumstance which could tell in favour of her Royal mistress. What, then, had been the language of his Learned Friends? Why they had told their Lordships that a lady of 48 years of age had been attended on board of a polacre in the middle of the Mediterranean sea by an individual whose duty he (Mr. Denman) maintained it to be to attend upon her; and had then asked them to infer that a criminal intercourse had taken place between that lady and that attendant, on deck, under the awning of the ship, because, for sooth, the attendant had ordered a bath to be prepared for his mistress, and had afterwards sent a maid to wait upon her. Was there any thing in the circumstances of the case which could support so monstrous an inference? But what were the real circumstances out of which that story had been fabricated? He would shortly tell them. The natural mode of taking the bath was not in the dining cabin, as Majochi had stated, and as he (Mr. Denman) should prove that it could not have been taken; but in the dining room, which their Lordships would recollect was stated to be divided into two distinct parts by a screen; and surely their Lordships would not infer that a guilty intercourse had occurred, because, before the bath was taken a male attendant had attended, as was usual at Paris and at other public baths on the continent, to see that the preparations were all ready, and the temperature of the water right. The witness to whose testimony he should appeal, in corroboration of what he had just asserted, was Gaetano Paturzo. [Here Mr. Denman looked for the evidence of Paturzo, but was not able to find it. Some time elapsing before it could be found, Mr. Denman apologized to their Lordships for the delay, and, whilst his Learned Colleagues were searching for the passage to which he alluded, proceeded to the following effect:—] He had just been reminded that the Sicilian witnesses had thought proper to state, that when Bergami and her Royal Highness were in bed they could see each other, in p. 95 of Gateau's Paturzo's evidence, and in p. 118 of Vincenzo Gargiulo's; and yet De Mont, when she was examined upon that point, did not confirm their statements, but merely said that she had heard them, when in their respective beds, addressing each other—a circumstance which, on board of a ship, was very natural, and which had never before been considered

sufficient to raise a presumption of guilt. At p. 118, Gargiulo is asked "What kind of bed was it that the Princess occupied? was it a single bed, or was it a double bed?" and his answer is "Two sofas joined together, that would make together six palms and a half; it was about the breadth of six feet and a half." That was the size of the bed, according to Gargiulo; and Paturzo had proved the size of the room to be 10 feet and a half. [Mr. Denman again found himself unable to refer to the immediate passage in Paturzo's evidence; whilst his Learned Friends were looking for it, he proceeded.] He had been just reminded of another contradiction which could be given in Majochi's evidence, if, indeed, it were important to give any further contradiction to evidence which had already been so frequently contradicted. But Majochi had denied the existence of any communication between the room of her Royal Highness and that of the Countess of Oldi; but such a communication had been proved to exist, as well by De Mont and the other witnesses as by the plan of the vessel which Paturzo had drawn at the bar of the House for the use of their Lordships. The next part of the case to which the Attorney-General had called their attention was the case of Sacchi's arriving at night at the house of her Royal Highness—of his going immediately in search of Bergami—and of his seeing Bergami coming out of her Royal Highness's room; from all which it was inferred that at that time also a guilty intercourse had taken place. But, if their Lordships would look at the evidence, they would see that it by no means substantiated that charge; for, so far from saying any thing like what the Attorney-General had said, he merely stated that Bergami was not in his own room, and that he saw him come out of another, of which he did not know who was the occupier; and from which, because he did not know who was the occupier, it was not to be inferred that it was her Royal Highness's. If their Lordships would turn to p. 480, they would find the following questions and answers:—

"Did you return to the Villa d'Este on that night or on the following morning? I returned immediately after midnight.

"Upon your return, where did you go? I dismounted from my horse; I went into the kitchen, where I found a footman, whom I asked where M. Bergami was.

"In consequence of the answer, where did you go? I mounted the stairs, and went into the ante-room of the apartments of Bergami.

"What did you do on going into the ante-room? I found a servant of Bergami asleep; and I went towards Bergami's bed-room: finding the door open, I went in, and saw the bed of Bergami tumbled, but there was nobody in it."

Here, said Mr. Denman, are two servants of Bergami, who could have confirmed the testimony of Sacchi, and yet neither of them had been called for that purpose. The examination then proceeded:—

"What did you do upon that?—I went away, and in going away I heard a noise on the opposite side, and at the same time I heard, 'Who is there?' Then I knew that it was the voice of Bergami, to whom I answered that it was the courier returned from Milan. Bergami told me that there was no such necessity to give him this answer.

"How was Bergami dressed at that time? In his dressing-gown.

"Did you perceive what he had on under his dressing-gown?—I saw only his breast, which was unbuttoned or untied, and I saw nothing else but his shirt.

"In what place was it that you saw Bergami?—I saw him in a room where there was a door opposite to the door of his room.

"Did you see where Bergami came from? *I could not see it on account of the darkness.*

"Where did that door lead to, which you have mentioned, which was opposite Bergami's room? It led into more rooms.

"Who occupied those rooms? No one.

"Do you know what room was beyond those rooms? do you know where the Princess slept? I do not.

"Do you know where the Princess's bedroom was? I do not."

And yet (continued Mr. Denman) from this ignorance your Lordships are called upon to infer that it was her Royal Highness's bed-room. But in a subsequent part of his evidence it was attempted to prove, directly, that this room was her Royal Highness's room; and how? Sacchi was sent with a letter to General Pino. On his return he delivers the answer to the Princess in her ante-chamber; that ante-chamber is near the place from which he saw Bergami coming on the night of his return from Milan, and therefore, is the very room from which Bergami came. But the misfortune of all this argument was, that no date had been assigned to this transaction, and yet it appeared in evidence that her Royal Highness had made considerable alterations in the interior of the Villa d'Este. It became their Lordships to consider whether those alterations had or had not been made between the two events of which Sacchi spoke; if they had taken place (and had any date been assigned to the transaction, the Counsel for the Queen might have shown whether they had or not,) he would ask whether it was consistent with common sense to take for granted, as the advocates of the bill had, that Bergami had come out of her Royal Highness's room? In his opinion, it was impossible that any reasonable mind could come to such a conclusion: that charge was

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therefore completely got rid of, even as the evidence then stood. He would now desire their Lordships to revert to the statements which he had formerly made regarding the bath scene, and to the manner in which he had introduced them. The evidence which he had supposed that Paturzo had given, regarding the size of the dining-cabin, had been given by Majochi, and was to be found at p. 90 of the printed minutes.

"What was the size of the bath-room?—Perhaps from here to the first bench, from 6 to 7 feet—a small room.

"What furniture was there in that room? I remember that there was a sofa-bed, or sofa, where in the morning we placed the cushions when we opened the tent."

Now, if their Lordships referred to the evidence which he had formerly read to them, regarding the size of this sofa-bed, they would find it to be 6 or 7 feet long; and yet in a room of the size which Majochi had mentioned, containing furniture of such relative magnitude as Gargiulo had described, their Lordships were called upon to believe that this celebrated bath scene had actually occurred. The learned counsel then proceeded to observe, that it might be almost worth while to make out a catalogue of the charges adduced against her Royal Highness, distinguishing those which were supported by several witnesses, from those which were supported by a single witness only. There were sixteen overt acts of this latter class alleged in the Attorney-General's opening speech; of which three were said to have occurred at Naples, and were to be proved by the evidence of De Mont. Their Lordships must be well aware that the three overt acts to which he then alluded were the occurrences which took place on the night of her Majesty's visiting the Opera—the occurrences at the masked ball in the Theatre San Carlos—and the meeting in the corridor—all which rested on her evidence, and on her evidence alone, and in which, therefore, she could not be contradicted by any other witnesses as effectually as she had been contradicted on every other point. Then came the two cases at Varrese and Lugano, of which the Attorney-General had said so much in his opening speech, but which—he begged his learned friend's pardon—he had not even attempted to support by a single witness. Then came the case at Catania, which depended on De Mont's evidence alone; then the case at Savona, also resting upon one evidence; then the tent scene at Ephesus; the Caffa Turk, described by Majochi, which he alone had seen, but which had been fully disproved by other testimony. Next to these came Sacchi's return at midnight from Milan, with a letter from General Pino, and the discoveries subsequent thereon, of which nobody could say a word

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except Sacchi himself; and, to conclude all these, next came the case to which he must then particularly call the attention of their Lordships—the case of Scharnitz, proved as it was by the evidence of De Mont, and of no other witness. What could appear more satisfactory than the account which his Learned Friend the Attorney-General had given of the circumstances which had occurred there? There was a lady of high and distinguished rank disturbed in her bed at midnight; her waiting-maid was sleeping in the same room with her—a gentleman entered—the waiting-maid was dismissed—and the gentleman and lady immediately proceeded to that most intimate matrimonial connexion which it was the object of the bill to establish. Now was it possible to imagine a more clear and convincing case? If such facts had really been proved—if there had been no bustle, no interruption, no long delay—if the lady had really undressed to go to bed, or if the lady and gentleman had gone into the same bed, from which it would have been only fair to infer that they had both gone into it undressed—they (the Queen's counsel) could not have held up their heads in court for a single moment, unless they could have shown that the witness who had sworn to the facts was unworthy of credit in every particular. They had, however, done more than this—they had not merely shown that no credit was to be attached to the testimony of that witness, but they had actually disproved every tittle of it. They now intended to go further—they charged that particular witness with an intention of deceiving the counsel for the bill, by stating to them circumstances which made out a *prima facie* case of guilt against her Royal Highness, and by withholding from them at the same time certain other facts which were fully within her knowledge, and which explained away the other suspicious circumstances. For, what were the real facts of this case? It was true that Bergami and Vassali had gone from Scharnitz to Inspruck about passports—that they had returned between two and three o'clock in the morning—that De Mont had left her bed when they returned—that immediately afterwards the whole party was in motion—and that they left the place as soon as the unwieldy equipage of a royal personage could be put in motion, during snowy weather, and in the peculiar circumstances under which the whole party was placed. Her Majesty was then upon her road to the palace at Rastadt, which she had once intended to take, though she had afterwards been prohibited from occupying it; and during the whole of her journey to that place she had been received with all the honours and attentions which were so eminently due to her rank and character. On that evening, however, in consequence of some mistake in her passports, she had been obliged to stop at a

miserable inn, in which there was scarcely a room for her to rest under any circumstances, where there was no accommodation for her suite, where the greatest part of them were compelled to lie upon straw, and where all were obliged to keep on their clothes, except, as De Mont wished at first to insinuate, herself and her Royal Highness. In pages 321, 323, and 363, their Lordships would find all the evidence offered by the counsel for the bill to make out this part of the case:—

“Who went to bed in that room besides her Royal Highness? did any body?—Myself.

“Did Bergami return from Inspruck that night? Yes.

“As well as you can recollect, how long after you were in bed?—I do not recollect precisely, because I had already fallen asleep.

“Did you sleep in the same bed with the Princess, or in another bed?—In a small bed, which was laid on the floor.

“Upon the arrival of Bergami, did you receive any orders from her Royal Highness? Did she tell you what you were to do? Her Royal Highness told me that I might take my bed and go.”

It was very probable, continued Mr. Denman, that she had done so; for when Captain Vassali arrived there was a second bed in the room; the little Victoria was on her Royal Highness's bed, her Royal Highness was dressed, and every preparation was immediately made in order to enable her to start as soon as ever the sun should dawn. Whilst upon this point it would be important for their Lordships to refer to the evidence given by Lieut. Hownam at p. 743. But, before they did that, it was necessary for him to remind them, that in the case, as it was first proved by De Mont, there was nothing to show whether her Royal Highness was dressed or undressed, but they were left to suppose that she was without her clothes, as she had gone to bed. It was only at p. 323 that she let out a fact which showed that there was no criminality whatever in the case. It there appeared that to bed her Royal Highness did not go at all, in the ordinary acceptation of the phrase, but that she had been resting on it till Bergami returned, and that too in the clothes which she had worn during the day. The evidence, as it appeared on the Minutes, was as follows:—

“Was there frost or snow upon the ground? There was a great deal of snow.

“It was a poor inn, an indifferent inn, was it not? A small inn.

“You are understood to say that you were upon a bed in the room of the Princess—was it so? Yes.

“Had you taken off your clothes? Not entirely.

“Had you taken off more than your



gown? I do not perfectly recollect, but I believe not."

"So she clung fairly to this ambiguity about clothes. At first their Lordships would have supposed that she had been naked, but at last it appears that she had not not taken off more than her gown. His Learned Friend had then asked—

"Had the Princess undressed? I do not recollect whether she was undressed.

"Do you remember the dress that the Princess was in the habit of wearing at that time?—Yes.

"Was it not a blue habit trimmed with fur, &c.? Yes, there was a great deal of fur about her dress."

So that at last it had been drawn from the witness that her Royal Highness was not naked, but in a fur dress, which by-the-by, was not very well adapted for any such purposes as were imputed to her. After this De Mont was asked another question, from her answer to which it appeared that, having been let into the secret that her Royal Highness and Bergami were living on the same terms as husbands and wives, and were indulging in all conjugal endearments, she was forthwith turned out of her Royal Highness's service to which she had never afterwards been allowed to return. And, now that he was upon this subject, he would take the liberty of making a few comments upon the letters of this witness, on account of which, though they contained direct proofs of her insincerity, the counsel for the bill had contended that she ought to be believed. His Learned Friends on the other side had contended that De Mont's intention was to inform her Royal Highness that there were certain persons who were ready to pay her for secrets which she possessed, and she was ready to conceal and discover those secrets, according to the manner in which her Royal Highness treated her. Taking the letter in that point of view, what did it amount to? It was a threatening letter. He would, however, maintain that such a construction ought not to have been upon that letter. The more natural construction put upon it was this, that she, not being in absolute want, but in no great abundance of money, had written to her sister, desiring her to use greater economy. Her language was in effect this—"I am denuded of every thing, owing to my carelessness. Do not you commit the same fault. I have been assailed, in consequence, by several Gentlemen from London, whom I know to be spies on her Royal Highness. They have promised me a brilliant establishment if I will depose against her.—I know the meaning of their offers; they want me to depose to certain facts"—of which, according to the statement of the Attorney-General, she was the dangerous depository. Let the construction of that letter be what it might, the conduct of her Royal

Highness, upon hearing of its contents, was well worthy of their Lordships' consideration. Had her Royal Highness taken any steps to prevent her disclosing the secrets which she was supposed to possess?—Had she offered her money?—Had she pursued any other measures to conciliate this woman to her interests? No; she left her, without any offer, to her own discretion, until Sacchi took her off to Milan, to give her evidence before that celebrated commission. It was therefore impossible to suppose that she possessed any secret which could derogate from the character of her Royal Highness; and therefore, even taking that sordid view of the case which was taken by his learned friend the Solicitor-General, it showed that the servant was artful, and the mistress innocent. But, from the view of the case which he (Mr. Denman) had taken, he believed the mistress to be innocent, and the servant at that time, honest. He would now return to the occurrences at Scharnitz; and in doing this would direct their Lordships' attention to the evidence of Lieut. Hownam, as it appeared in page 718. Mr. Hownam had there stated, that it had been necessary for some person to go back to Inspruck to procure passports; that Bergami and Count Vassali had gone back for that purpose; and that they returned very late, about one or two o'clock in the morning. At page 743 Lieut. Hownam was cross-examined on this point, and it would then have been very easy for the counsel for the bill, with the information which they were daily receiving from their valuable acquaintance, Sacchi and De Mont, to have reminded him of any minor details, if such there had been to shake his evidence. Did they do any thing like this? On the contrary, they asked him a thousand questions about the passports, and the snow, and the barriers, and the luggage; but, in all the questions they had put to him, there was not a single question calculated to elicit a contrary fact; and therefore, assuming his evidence to be perfectly unimpeachable, he should next proceed to the evidence of Count Vassali, as it appeared at page 937. Now, in introducing Count Vassali to their Lordships notice, he scarcely thought it necessary to observe, that his having been a private soldier in the Royal Guard of the King of Italy was no reflection upon him, nor at all inconsistent with the rank which he at present held. Indeed, when they recollected his military air and polished demeanour, they would see how unlikely it was that he should have arisen from an humble rank in society. Those of their Lordships who were at all acquainted with the Continent must be aware, that they could hardly go into any town where there was a respectable young man, without finding that he had been, at some time or other, appointed as a guard of honour either to the



Emperor Napoleon, Josephine, Maria Louisa or the Emperor of Austria, on their passage through that town. The following were part of Vassali's answers:—"It was necessary for Bergami and myself to go from Scharnitz to Inspruck about the passports. We set off after dinner, after 12 o'clock, and returned between two and three in the morning. On our return we went into the room of her Royal Highness whom we found sitting on the bed—leaning—half-lying—covered with shawls, or something like it. After we had entered, Schiavini, and then the Countess Oldi, came into her Royal Highness's room from her own; the little Victorine was there also: and he added, that when he first returned from Inspruck, he saw her on the bed along with her Royal Highness, which Mad. De Mont had carefully kept out of sight, as well as that she herself and her Royal Highness were fully dressed. In the course of the morning an officer had arrived from the police, with whom he (Vassali) had some conversation: after which he was frequently in and out to her Royal Highness, making communications to her about the roads and the weather. The suite remained up all night, making preparations for her departure.' When he was pressed regarding the bustle of this preparation, he gave that answer which every person would see to be correct—"That a person was not easy, that he was always in movement, when he was obliged to wait upon a personage of her Royal Highness's quality; in short, a person was in eternal movement." He likewise gave such a statement as rendered the impatience of her Royal Highness to proceed on her journey perfectly natural. He said that she had been reposing on the bed from twelve o'clock on the preceding day, and, therefore, that she could not be in want of rest. This statement of Vassali's was in perfect consistence with that of Lieut. Hownam, and therefore little doubt could be entertained of its truth. From another part of the evidence it also appeared that Sacchi had been sent to Scharnitz: and yet, extraordinary as it might appear, no question had been put to him about this part of the transaction, to elicit his information on the subject, or to gain his corroboration to the evidence of De Mont; though, from the nature of her evidence, and the manner in which she had been cross-examined, the Attorney-General must have known that it would be questioned, and that it was, therefore, important to corroborate it by such evidence as that of Sacchi. The next part of the case related to what was said to have occurred at Carlsruhe: and here he could not help deploring the situation in which her Royal Highness had been so long placed. In the consideration of this case it would be impossible not to refer, over and over again, to the extraordinary calamities of her married

life. She had left the country, after having undergone and defeated one prosecution; but still followed by reports invented and circulated by the rancorous malignity of her enemies. [She knew that she was surrounded by those who were anxious to destroy, not merely her reputation, but her life: and yet she resorted, in the course of her travels, to no less than fifty luns, at none of which had any thing criminal been endeavoured to be imputed to her, except by the respectable Pietro Cuchi, and the equally respectable Barbara Kress. He could not help again referring to the general statement which he had made yesterday. If there was any adulterous intercourse passing between her Royal Highness and Bergami, how happened it that with a chambermaid, anxious to discover so important a secret, the linen had not in this, as it had in other instances, betrayed that guilty intercourse? How was it in the intercourse which it was alleged had occurred in the polacre? There it was true, there was not any, what he should call bodily linen, to betray it; but then there was the matting? Did it betray any marks of such intercourse? There was not even an attempt to exact such a fact from De Mont; and if she had said that there were any marks on it, she knew that she must be immediately contradicted. Now how stood the fact at Carlsruhe? Was it possible to doubt that, from some unfortunate attempt to destroy this illustrious lady, individuals thought that it might be to their advantage to pursue her with fresh calumnies? How else came it to pass that, for the first time since the Reformation, a Hanoverian Minister had been sent to the Court of Rome? Why, for the first time, had the Minister of this Protestant Court been accredited to his Holiness the Pope? Why was it, except that the Baron Ompteda might sit at her Royal Highness's table, at once her guest and her betrayer? Why, whenever a question had been put regarding the name of that individual, had one of his Learned Friends always started up with an objection—always closed the mouth of the witness, and erected an obstacle to the investigation, of truth, which they had repeatedly declared was the sole object of their labours? It was evident that Majochi had been instructed by somebody, and for some hidden reason, to say that he did not even know the name of Ompteda; that it was as unknown to him as that of any chieftain in the Sandwich Islands. He was asked, did not the Baron dine at the table of her Royal Highness? His answer was, that he might have done so, but that he did not know him. Then he got to a sort of a half knowledge of him as a Prussian Baron with an extraordinary name; but yet knew nothing of his extraordinary transactions. De Mont, however, admitted that she knew his name, but she, kind soul!

knew nothing of his being a spy—had never heard of his picking any locks, and had never been informed that he had made any attempt to obtain her mistress's letters until she was told so at the bar of their Lordships. He had called their attention to the evidence which had been given in this case; but it was quite as important that they should give it to the evidence which had been suppressed; for they had been told by Rastelli, that active agent of the Milan commission, who had been abstracted from the country, that he had accompanied Mr. Cook, who was at the head of that commission, to Frankfort, to see Maurice Credi, who it was in evidence had confessed to Lieutenant Hownam that he had been employed to pick the locks of her Royal Highness's cabinets by the Baron Ompteda. Why was not Maurice Credi, whom he knew to be in England, called in behalf of the prosecution? He was without doubt as ready to have told all that he knew, and perhaps more than he knew, as any of the witnesses who had been examined. But his Learned Friends on the opposite side were aware that, if they had placed him at the bar, he would have been compelled to disclose all the transactions in which Ompteda had employed him. He had been examined by Mr. Cook: why, he would ask their Lordships, had he not been examined by the Attorney-General? There was another witness also in the country, of the name of Annette Preising, the attendant chambermaid with De Mont; but she had not been called, though the Attorney-General had declared himself willing to prove every thing material on either side. Now, with regard to the evidence of Majorchi, their Lordships could not have forgotten that when he had denied all knowledge of Ompteda, and said that he was quite a stranger even to his name, he (Mr. Denman) had introduced to their notice the evidence of Wm. Carrington, and had then called his attention to different circumstances which he had mentioned. William Carrington had no sooner left the bar, with the approbation of every honest man who had heard him, than materials for his cross-examination were sought after by the First Lord of the Admiralty. Carrington's Captain was sent for to town, and the whole of his life was submitted to the strictest examination. Did he (Mr. Denman) complain of this? By no means: if it were not irregular, he would with all due humility return his thanks to the Noble Lord for it, because he would say of that individual what foreign writers had said of the English nation—that you might find gentlemen, in the general sense of the word, among the lowest classes in it. He would say of William Carrington, that, in whatever rank in life he had been placed, nature had made him a gentleman, and that his evidence was placed far out of the reach of all dispute.

In the course of his evidence he positively stated, in more than one or two places, that he held conversations with Majorchi on the subject of the Baron Ompteda. In the course of a long and minute cross-examination the same consistent story was adhered to, and he (Mr. Denman) would assert that it was impossible for any evidence to be more clear or satisfactory than that given by him on this point, and indeed on every part of the case to which his testimony referred. It was evident, then, that Majorchi had spoken of the conduct of Ompteda; that he had expressed indignation at his attempts at corrupting her Royal Highness's servants; and he added the emphatic expression, that, "if he met him on the road, he would kill him like a dog." In the three strict cross-examinations which he underwent his evidence remained unshaken, and in no one point had he contradicted himself, or was he contradicted by others. It was clear also that his account about being a midshipman was correct, that he had served in the *Poictiers*, and that Sir John Beresford declared that he had no man whom he less wished to part with than Carrington. If his Learned Friends on the other side could have contradicted the evidence of this man, or of any of the witnesses who appeared for her Majesty, what advantages did they not possess over the Queen's counsel in this respect, and how advantageously were they placed with regard to the difficulty of contradicting their witnesses? they whose whole case was made up by foreign witnesses, the subjects of powers who were so very unwilling to let some persons come over—who were so ready to give permission to others—nay, to force them to come—who were so shy of even verifying some documents which were sent to them—(and this circumstance, he begged to remind their Lordships, showed the unparralled difficulties of her Majesty's situation). The very fact of the witnesses being foreigners gave them a protection from the chance of detection. If they were persons who were known, might it not have been in the power of her Majesty's counsel to have given evidence of their former situation and conduct, and perhaps to have shown that they were persons who were every way unworthy of being believed in a court of justice? From all this, however, their being foreigners protected them. This was a disadvantage to her Majesty's case, but fortunately it was compensated by her counsel being able to contradict those swearers out of their own mouths, in cases where it would be difficult otherwise to disprove their testimony. If, then, this story of Baron Ompteda was true, did it not prove to their Lordships that spies had been set to watch the conduct of her Royal Highness—to note down her most innocent actions, for the purpose of torturing them into evidence of guilt? He now came to

what was said to have occurred at Carlsruhe; and here he would point it out as remarkably coinciding with the opinion he had just stated, that no fewer than three ministers were employed in sending this witness to England; and that one of those very ministers, on her Royal Highness's arrival, had invited her to accept of his rooms at the inn, which, the very moment she quitted, he returned to, and ran about busily examining every little circumstance which he thought could lead to even a suspicion of guilt. Could there be a doubt on any man's mind that these persons so employed had thought they had caught her Majesty in a trap from which she should not be able to escape, and that they were anxious to find some willing instrument to depose against her? Now what had the witness (Kress) said in page 182, and the following pages? She described herself as having seen the Princess sitting on Bergami's bed, Bergami having his arm round her neck, which he let fall the moment the witness appeared: and here the remark which he had so often made again occurred—that each witness who is called to any particular point, so shaped his testimony, as that that part of the case rested with himself. This Kress, however, did receive a contradiction from the witness Sacchi—a contradiction which he could not have given without suspicion to himself. The evidence of Kress on this point was in page 182. She was asked—

“What sort of a bed was placed in No. 12? A broad bed.

“Was that bed in No. 12 before the Princess arrived, or was it placed there after her arrival, and in consequence of that arrival? There was another there before, but I had been ordered to put a broad bed; I had been obliged to put this broad bed in before the Princess of Wales arrived.

“Had the courier of the Princess of Wales arrived before that bed was placed? The courier had arrived; and then I placed this broad bed to which I allude.”

Now, continued Mr. Denman, the inference intended to be drawn was, that the courier had been sent on to have a broad bed placed, as the beds at Carlsruhe were small; but in page 435 their Lordships would find Sacchi's account of this matter. He said, “I continued to distribute the lodgings as far as Carlsruhe; but when we arrived at Carlsruhe, there having happened the same thing that happened at Turin, that is to say, the change of the bed-rooms, I did not meddle with it any more during the rest of the journey, leaving to her Royal Highness and Bergami to choose what rooms they liked best.” So that, so far was he from giving directions for the change of the arrangements, those he made were altered. Here, then, was a manifest contradiction to Kress. Now, Kress stated, that having to

carry water to the room No. 12, she saw Bergami as he had before described; and she also said, “the courier had arrived, and then I placed the large bed,” &c. But might she not have got that order from the officious Mr. Baron Grimm, who seemed to interest himself so much about the disposition of her Royal Highness's room? But, be that as it might, Kress declared that when she got to the room her Royal Highness started up, as if frightened at being seen. He begged their Lordships' attention to what she admitted in her cross-examination on this point. She was asked—

“After you had seen the person you took for the Princess in the evening in Bergami's room, did you go to see whether the Countess of Oldi was in her room? No, I carried water immediately to No. 5, and there they were standing; at No. 5 the Countess lodged.

“Did you not go to No. 5, in order to see whether the Countess was there? Yes, I went just there.

“Did you not go there for the purpose of seeing whether the Countess was there? I went, and saw just that it was the Princess.

“Did you not go there for the purpose of seeing whether the Countess was there? No, I went not there; I just carried the water there.

“Will you swear you did not go to that room, upon the oath you have taken, in order to ascertain whether the Countess was there? I went just there to carry the water because I must do this, as I did it every evening.

“Will you swear, by the oath you have taken, that you did not go to that room in part for the purpose of ascertaining whether the Countess was there? I cannot say this; I did not go for that purpose; I have never thought that I should be asked about this.” And, continued Mr. Denman, the interpreter added, she says, “I have never had any thought about this; I never thought that I should be asked about it.”

So it appeared she knew well what she was to be asked, but such a point as this was, of course, not put into her mind. She was then asked—

“Will you swear upon the oath you have taken, that you have never told any person that you did go to the room of the Countess for the purpose of seeing whether she was there or not? I cannot recollect it; I have no thought about it, whether I have said it to any body.

“Will you swear that you have never had any conversation with any person about your going into Madame Oldi's room that night? I can swear that I never had a conversation with any body about this matter, namely, that I went there for the purpose of ascertaining whether the Countess of Oldi was there or not.

"Will you swear that you have never had any conversation with any person about your going into Madame Oldi's room that night? Nobody has asked me—nobody told me any thing; there was a gentleman who asked me whether I had been in the room; I told it to the gentleman who asked me."

So that it appeared she could not recollect the conversation, or whether she had any; nor could she recollect having gone to the Countess of Oldi's room for the purpose of ascertaining whether she was there. At best, she was in doubt as to who was there; and when their Lordships took that circumstance, and the other fact where she was contradicted, into consideration, they would, he was sure, see that, instead of this showing any guilt on the part of her Royal Highness, it only manifested the incessant efforts which were made to adduce something which might affect her character. The exertions which were made to induce this woman to give her story were astonishing, and full proof of the efforts which he had just spoken of. She was taken to Hanover, and there questioned by one ambassador; to Frankfort, and examined by another; and though she did not speak of a recompense, their Lordships would judge whether the compensation which she admitted was not sufficient for one of her description. The story of the gray cloak, which this witness said she saw one morning on Bergami's bed, and which she afterwards saw on the Princess, was allowed to rest upon her unsupported testimony. In page 188 she spoke of having seen stains on the bed; but this part of her account was left isolated. They were not told whether this occurred before or after the alleged scene of the Princess sitting on Bergami's bed, nor was it said to be before or after her having found the cloak. All that was said by Kress about them was, that she had seen stains on the bed, and that they were wet and white. Now, when their Lordships looked at the other parts of the case, they would find that it was impossible. He said it was impossible that, if they were such stains as was wished to be inferred, they could be white, and in a state of humidity. Kress stated that she was a married woman, and had often made the beds of married persons; but when asked to describe the stains she had seen, she replied—"You will pardon me, I have not reflected on this—I have had no thought of it whatever." If she had no thought on it whatever, why was she brought here? If what she had stated was true, why she would have declared it, and not have been seized with that fit of modesty for which he had heard her praised. Her's, however, were not the blushes of expiring modesty; no, they were the blushes of expiring truth, which she struggled to give up at their Lordships' bar; for she knew she was swearing what was false; and to prove

this perjury with which he charged her, he would call their Lordships' attention to that part of Lieutenant Hownam's evidence in page 717. He was asked—

"Do you remember being at Carlsruhe? I do.

"Who received her Royal Highness at Carlsruhe? There was a Grand Chamberlain received her Royal Highness on getting out of her carriage, and a Chamberlain was appointed to attend her always after.

"Do you remember the name of that gentleman? The Baron d'Ende.

"Did her Royal Highness pass the greater part of her time at Court, or in retirement, whilst she was there? Almost always at Court, or in the family of the Grand Duke.

"Where did her Royal Highness usually dine during her stay at Carlsruhe? At the Court, or else at the Margravine's, the Grand Duke's mother."

Here, then, their Lordships had it in evidence that the utmost attentions were paid to, and parties made to receive, this illustrious lady, who had been described as a destitute outcast from the society of her relatives, as a prostitute who had degraded herself, her rank, and her country, and who was no longer worthy to be continued in the enjoyment of the honours of her elevated station. Yet their Lordships found that, so far from this being the case—so far from her Royal Highness shunning or being shunned by her illustrious friends and relatives on the Continent, she sought their society, and her company was sought by them. In page 707, Lieut Hownam was asked—

"You have said that the Princess dined with the Grand Duke, except one day that she dined with the Margravine; did you dine in company with her Royal Highness on those occasions? I did.

"You have said that she supped at the Grand Duke's, and also at the Margravine's; did you sup in company with her? I did.

"At what o'clock, at that Court, is the dinner? I cannot positively recollect.

"About what hour? I do not recollect the hour sufficiently to be able to mark it.

"Have you any recollection of the lateness of the hour of supper, and the evening parties there? I cannot say to what hour they lasted; probably 12 o'clock.

"Can you, of your own knowledge, say whether the Princess had time to return home between dinner and supper—between the dinner and subsequently going to the other house, or supping at the same house? I should imagine yes.

"Did she, to your knowledge, on any one of those days, return home between

For his own part, sentiment, which might be allowed rather see his royal like Anne Bullock more perilous situation now stood. He hand her to the have to lay her with all the firm belonging to her illness her condensation charges, which were indeed of general scorn to be looked was entitled to by the misconduct brought her to time to be regarded instance of degradation. The House try the Queen as act of high treason had been charged what would be the regarding a prisoner evidence been a false and impugned accused of on insignificant declare on the present, that intercourse—the proved—that been shown to there might guilt, because hunted at such mal intent was for the situation oath that he under such that a prisoner ted, would bar of this dereliction. back to fables of this inst. other? T. One state in another have been slain, the did no water, was in he was. What then, did not or or is. 1. 2.

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been made without the consciousness of ability to make it good by clear and indubitable testimony. But it had not been proved either that these scenes occurred with the knowledge of her Majesty, or that they occurred at all. Their Lordships could not forget the endeavour made to convert the exhibition of the tricks of Mahomet, a person described as undeserving the name of man, into a most serious charge against his royal client. No one circumstance of indecency had, however, been established in evidence, as connected with this transaction. Then again it was asserted that persons of distinction who had previously been in attendance on her Majesty's person could attend no longer, and withdrew in consequence of what they observed to be passing at these balls. The immorality was described as having been so great, that they could not, with any due care of their own reputation, remain longer to give their countenance to what was going forward. But after such a representation, was it not natural to expect—was it not in effect necessary to the case—that some of these individuals should be called? It was too much for any counsel to talk of motives as well as actions, without being able to prove the facts contained in his allegations. These censors of morals—these delicate critics on propriety—these persons of rank—were not to be found amongst the witnesses for the prosecution. The only witnesses were De Mont, Majocchi, and Sacchi; every other witness stated distinctly that he had never seen any impropriety, nor experienced any disgust at what took place at the Barona. They all agreed, that if any thing irregular happened, it did not fall under her Royal Highness's observation. It was in evidence, that during the stay of two months which her Royal Highness made at the Barona, Bergami, was absent for a considerable part of the time; and as to the usual deportment which was observed between her Royal Highness and Bergami, the whole that was stated by their own witnesses on the other side amounted to this—that her Royal Highness sometimes used the pronoun 'thou' in addressing Bergami, and that he used the word 'Princess.' One of the questions put by his Learned Friends was, "Did you observe, during this time, Bergami doing any thing to the Princess?" To be sure such a question was a pretty good *bolus* for any witness, and very little doubt could be entertained that it arose out of information received from Milan: yet, what was the answer, as delivered at their bar? A complete negative to the question. It was found difficult to make witnesses repeat in open day, and in the course of that solemn inquiry, what they had willingly deposed at Milan, and what had been there listened to as willingly. "I saw nothing particular," said the young lady; "but a story was told of something which had pass-

ed in the house to her Royal Highness." If their Lordships referred to page 408 of the printed minutes of evidence, they would find that the criminatory part of this statement was not borne out by the testimony of Sacchi? When Sacchi was asked "What description of persons attended these balls?" his reply was, "At the beginning, besides the persons in the suite of her Royal Highness, there came also some people of distinction; but in these balls were introduced people of all ranks, and of both sexes, and even of very low condition; and as between some of the suite of her Royal Highness and these low women there was some freedom, then the people of distinction were no longer seen." He could very easily believe that Sacchi, and others of his acquaintance, had indulged in some freedoms of the kind alluded to, and so far gave implicitly credit to his testimony. But what was the answer given by him to the question whether "the Princess was always present at these balls, and in the same room with these people of low description, and the girls who came there?" The answer was, "Sometimes." This was all that could be got even from Sacchi, and even immediately after this anecdote—that pure offspring of his fruitful brain—about the population of the Barona, and of the observation made by her Royal Highness respecting it. In page 405 it would be seen that their Lordships themselves had pursued this examination, and had put the following questions to the witness:—*You are understood to have stated that the Princess was present during the balls mentioned by you, as given by her Royal Highness at the Barona; how long was she usually present at these balls?* What, then, was Sacchi's reply to this question? "As her Royal Highness had her own apartment contiguous to the ball-room, where she had her own party, so she came from it, and entered the ball-room, where she usually stayed three or four minutes, and then returned." Here was all the evidence that could be procured of the licentiousness which was alleged to have taken place on these occasions, and of her Royal Highness's knowledge of, and privy to, that licentiousness. The answer of this man to the next question was remarkable. "You have stated that the women were taken out of the ball-room at the will and pleasure of the men: do you remember that on any one occasion the women were so taken out of the ball-room in her Royal Highness's presence?" Sacchi himself said that "he never made the observation." It appeared, therefore, quite manifest that these entertainments were nothing more than little festivities, such as many ladies of the first rank, and of the most unblemished honour, were in the habit of giving to friends, or to their tenants, labourers, and servants. There was no evidence of any thing beyond this,

except the story told by the witness of his having himself slept with three girls who attended at the balls. But to give depositions or entertainments to persons in the humbler walks of life was never before made a ground of accusation, or an instrument for destroying the reputation of an innocent and honourable woman. Suppose that a couple retiring from one of these balls had toyed a little on their way back, had indulged in a little dalliance, was it to be considered as a fault or crime on the part of her Majesty? It actually happened to be the practice in England for individuals in an elevated station to give countenance occasionally to the harmless visits of their inferiors in rank. What would be thought of him who should charge one of these individuals as an accomplice in the offences or irregularities that followed on such occasions? He had heard a great deal of a lady whose name was said to be Regina, and had looked forward to proof that her house was one of ill fame, that it was frequented by the same kind of society, and that men and women were there in the habit of retiring together from the public room. By a reference, however, to page 742 of their printed minutes, to the evidence of Lieutenant Hownam, as there detailed, and also to page 984 where the same evidence was confirmed by that of Count Vassali, it would be seen that no such scenes ever took place. In Pomi's testimony a description was given of these entertainments, which must inspire every man with regret that he was not present at them. (*A Laugh.*) They were in fact very elegant and good-humoured festivities; the young ladies who attended never came without their natural protectors, and the most perfect decorum reigned, as far as the Princess had any cognizance of what proceeded. Antongone was a most respectable man, intimately acquainted with the neighbourhood and the character of the inhabitants, and it appeared that his daughter and himself were regularly present at these assemblies. Weak and amply refuted as the case for the prosecution was, it became still important to animadvert on the minuteness and particularity by which it had been characterized. De Mont was to be the great means of misinterpreting every part of her Majesty's conduct, of arraying her very virtues in hostility against her. The affection and fondness which she evinced towards children—and a more amiable feature could hardly be imagined—had been converted into new matter of suspicion. But there was not one allegation in the charge which had not been put to pieces in the course of the defence by adverse testimony; as well as exposed by its own improbability. He had in some measure to express his gratitude to the most respectable gentleman—Signor Majocchi—for the account which he had given of the exhibition of Magomet, and for the manner in

which he had contradicted and refuted that gross misrepresentation. According to his statement the exhibition was of the most innocent kind: it might be absurd, but it was not profligate; it was what might be witnessed without offence to any man or to any woman. The truth of this account was fully borne out by the evidence of Mr. Hownam, and of Mr. Granville Sharpe. So much for that part of the case; but he now begged to recall their attention to the circumstances as stated in the testimony of Sacchi, and to the complete contradiction with which Sacchi's statement had been met. It had been asserted by Sacchi, that on one occasion the weather was so hot, that the windows of her Royal Highness's place of residence were thrown open, and that he himself had risen from his bed to air himself, and that Bergami thought this a very good opportunity of clandestinely stealing to the bed of his Royal mistress. He was sorry to detain their Lordships with so many allusions to the nauseous and incredible tale related by this man; but it was his duty to remark, that if his evidence were believed, it must place the character of every man and woman, be they who they might, at the mercy of any discarded menial. If the case were strong in itself, if the testimony came from unpolluted lips, and was derived from sources the most pure, such evidence ought to be listened to with jealousy and suspicion. Even though not infected by treachery and ingratitude, even though given without any motive to accuse or to traduce an innocent person, it was enough to raise a feeling of incredulity in every unprejudiced mind. But here the fabrication had been entirely controverted, the slanders of discarded domestics had been repelled. He would, however, now pass on to page 438, in which would be found a material part of Sacchi's evidence. It was not his intention to go over all the monstrous obscenities which were there detailed, and with which their Lordships' ears had been offended: but was it not remarkable that De Mont who was on the journey to Sinigaglia, should not be called to support and confirm the account of Sacchi? Was not this, to say the least of it, a very surprising omission? But, however, it was sworn by Sacchi that he, during that journey, went every morning near her Royal Highness's carriage to ask whether she wanted any thing. When asked "Who travelled in the carriage with her Royal Highness?" he replied, that "sometimes there was the Countess Oldi, and sometimes the little child of Bergami." At length the worthy and modest witness disclosed the important circumstance of her Royal Highness and Bergami being found asleep with their arms across the persons of each other. Now he would not here contend that this was impossible, but remind their Lordships how, when pressed in cross-

examination upon this point, the witness had sought refuge in a pretended defect of memory—that happy defect of memory which might possibly save Majocchi from the legal punishment which he so richly deserved. Their Lordships, he was sure, could never forget how directly the evidence of Sacchi in this particular had been contradicted by the adverse testimony of unimpeached and unimpeachable witnesses. They could not fail to remember the unfeeling coldness with which Sacchi had recited his obscene and filthy tale. In page 634 the contradiction was most positive and direct. It was there sworn that Carlo Forti, and not Sacchi, served as her Majesty's courier on that occasion. In page 640, during the witness's cross-examination, which was pursued by his Learned Friends on the other side with the utmost strictness, and when new circumstances were brought to the witness's recollection, he still declared that it was impossible he should be mistaken in this particular. He said that Sacchi was chafed with riding on horseback, and that he, Carlo Forti, acted as courier in consequence of that circumstance. He carried the dispatches, and was received into her Royal Highness's service after Sacchi's indisposition. No attempt had been made to contradict Col. Forti, although De Mont was on the journey, was intimately acquainted with Sacchi, and cognizant of every fact that occurred. They would find, indeed, abundant confirmation of Carlo Forti's testimony in page 772, during the evidence of Lieut. Hownam. It there appeared that the carriage in which the Princess travelled had no curtains which could be drawn by a person outside. It was, in fact, an English landaulet, with spring blinds attached to it. Mr. Hownam stated that, although Sacchi set out as courier, he was immediately taken ill, and Carlo Forti was substituted for him in that capacity. On his cross-examination, in p. 744, in reference to this subject, when asked about the travelling at night, and the stop at Fano, he stated that he could not recollect whether Sacchi was there or not; he was not quite certain as to the description of carriage used by her Majesty on the road, but it was her general practice to travel in an English carriage. This statement was made in a manner that of itself stamped verisimilitude upon it. They had next upon this subject the evidence of Col. Olivieri, a man of the first respectability, and of whom it would be obviously unjust not to speak in terms of the highest approbation. In page 907 he would be found to have stated, that her Royal Highness set out upon her journey to Sinigaglia about midnight, and that she travelled in what we called a *carrozina*, or English chariot. He had, he said, the honour of supping with her previously. The Chevalier Vassalli stated the time of departure to be about ten o'clock at night, a discrepancy plainly imma-

erial. The Countess Oldi, Bergami, and her child, rode in the same carriage with her Royal Highness. Lieutenant Hownam and Count Vassalli were both in attendance. [Mr. Denman here read a part of the evidence given by the latter.] Col. Olivieri distinctly observed, on this occasion, that, when her Majesty set out in the landaulet, Carlo Forti acted as courier, but he did not see Sacchi at all. The whole of this statement was subsequently confirmed by the evidence of Vassalli. It was hardly necessary to go over the whole of that evidence, and, if he did so, he feared he would exhaust their Lordships' particular attention to those parts of the evidence that were decisively important. In page 908 of the minutes of evidence, Vassalli, speaking of the journey from Rome to Sinigaglia, would be found to have deposed as follows:—"I cannot precisely say how long the journey lasted. Perhaps about three days. I remember very well in what carriage her Royal Highness travelled. It was an English landaulet. I remember that the Countess Oldi, M. Bergami, and little Victorine, travelled with her Royal Highness." He was asked, "Who travelled as courier to her Royal Highness from Rome to Sinigaglia?" The answer was, "I saw Carlo Forti on horseback." "Did you see Sacchi on horseback during that journey?"—No. "How long had Carlo Forti been in the service?" In answer to which he stated particularly those circumstances—"that Forti was hired provisionally at Loretto, but afterwards permanently or definitely at Rome;" and he further stated, that he believed Sacchi to have been spared from the duty of carrying dispatches, in consequence of his having suffered considerably in a former journey. Their Lordships would find that Vassalli was cross-examined (page 941) with a great deal of particularity and acuteness, but in no one circumstance which he had before stated was he found to contradict himself. Here then was M. Sacchi swearing to an improbable, an incredible, an indecent fact, said to have been detected by him on the highway, while he was riding by a carriage, the curtains of which could be drawn on the outside; the whole of which was contradicted. He was contradicted as to his having rode in the capacity of courier at the time by the person who actually did ride as courier; he was contradicted by Col. Olivieri, who saw Forti ride out as courier, and who did not see him; he was contradicted by the improbability of two couriers being employed; he was contradicted by the Chevalier Vassalli with respect to the carriage in which her Royal Highness travelled on that occasion. In short, he was decidedly contradicted by Lieut. Hownam, by the Chevalier Vassalli, by Col. Olivieri, and by Carlo Forti, by four unimpeached witnesses, on that part of his evidence which was so much relied on.

Was any confirmation of his evidence attempted? De Mont had endeavoured to confirm that part of it which related to the distribution of the carriages; but that was completely disapproved, and the statement made by her Majesty's witnesses remained uncontradicted by any evidence whatsoever. Was it possible, when the story was incredible; when the fact was in itself impossible; when the witness, from his own account, was unworthy of credit (for he appeared to come here for the express purpose of asserting that which was triumphantly contradicted)—when this was the case, must they not inevitably conclude that his story was altogether false? and, if it were false, what became of the whole of his evidence? what became of his private anecdote? what became of his detail of a conversation with the Princess (a conversation perfectly incredible), as to his own filthy and indecent familiarities with the woman at the Barona? What became of this statement of the conduct pursued by individuals at the Barona, which was said to have disgusted numerous persons of rank and family, not one of whom was called to prove how they had been disgusted? In the evidence of De Mont it was stated that her Royal Highness was black-balled, when she sought to be admitted to the Casino at Milan, on account of the impropriety of her conduct. Whether the fact really was so or not he could not tell. If it were so, he was sure the circumstance did not arise from any impropriety of conduct on the part of her Royal Highness, but because she was the wife of the Prince Regent of this country—his persecuted, calumniated, exiled wife—doomed to wander over the face of the earth, without a home—banished from this country, where she should have found a home—those individuals who had before defended her honour, and upheld her character, being numbered amongst the ranks of her enemies, and placed in a situation which he would not trust himself to comment on. Evidence could not be found to support all these facts which he had stated, and with which her Royal Highness had been boldly charged. Was it necessary for him to go farther? Was it necessary that he should go through the whole list of adverse witnesses—the Bianchis, the Mejanis, the Oggiones, the Finattis, and so on? Was it necessary for him to go into any detail on the subject of their evidence? Had he not given them a specimen of them all when he showed that Cuchi's perjury was made apparent, he having been positively contradicted as to the important fact of the residence of the Princess at Trieste? But, if he were anxious to point out more particularly what had been done in the way of direct contradiction and disapproval, he would ask their Lordships to look at the story of Adam and Eve—one of

the most foul, offensive, and disgusting charges that had been made against her Majesty. He would not describe it—he would only say that Guggiari, who intimately knew the disposition of these rooms, and the place in which the statues stood, proved, beyond the shadow of doubt, that it was utterly impossible for a man, in the situation stated by the witness Ragazzoni, to see what he declared he had seen. The plan that was produced by Guggiari afforded the clearest contradiction of Ragazzoni's testimony. Had any contradiction of those counter-statements been offered? None whatever. Could his Learned Friends say that they did not expect the evidence of their witnesses, on those points, to be contradicted? They must have known the contrary. Why, therefore, were they not ready to support the credit of those witnesses by other testimony? When Ragazzoni stated what had occurred in the grotto, it was most essential for the other side to have called on him to draw a plan of the place. They had heard of plans formed by Ratti and others. It was fitting that it should be so. Why, then, did not his Learned Friends call for a plan of the grotto? They had not done so and, on the other hand, it was shown, by a short statement of facts, perfectly consistent with truth, that Ragazzoni could not have beheld any such scene as he had described.—This was only a specimen of all the evidence.—It showed what men would do—what men would swear—when powerful temptations were held out to them to commit perjury. And it proved how cautious all men ought to be before they entered into a system which led directly to the encouragement of that most foul offence. In page 224 it would be found that Ragazzoni stated that he and another witness, Dominico Bruzo, on a particular night, when there was a sort of house-warming at the Villa d'Este, when all mankind were admitted to enjoy the festive scene, observed the Princess and Bergami sitting in the garden on the same seat! What was there extraordinary or improper in this? Nothing: only his Learned Friend the (Attorney-General) had stated that this circumstance took place at two o'clock in the morning, which certainly was an extraordinary assertion, and made the supposed detection a matter of considerable importance. But, when they looked at the evidence of Dominico Bruzo, who was with Ragazzoni on that occasion, and came to consider the mode of counting the hour in Italy, it was found that, instead of this scene having taken place at two o'clock in the morning, it happened at half past nine at night, when the Italian peasantry were, more than any other hour, in active motion—when they were busily engaged in enjoying the beauties of the happy country, in which they lived. The circumstance oc-



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*[The page contains extremely faint, illegible text, likely bleed-through from the reverse side. The text appears to be organized into several paragraphs.]*

individual as Bolognai—where were Lordships to seek for motives of an opposite kind, and why should they look for motives, to account for a line of conduct which was fairly and justly accounted for? Were they to draw an inference of infamy, and degradation, from those of these perjured witnesses, who had attested themselves, and been contradicted by others on every important point—who had not been confirmed on matters where action was possible—and who, therefore were not in a situation to command the credit? He perceived, on reference to the part he had taken, that he had passed part of the evidence unnoticed. It was necessary, perhaps to advert to it, as Lordships would find it on their minds when they came to look at the whole. He adverted to the monstrous, the palpable falsehood uttered by Sacchi when he told their Lordships that, above his age, he had been obliged to change name, and assume that of Milani, out of the tumult that took place. He had done this, it seemed, not at a time when no such tumult had occurred, but when very few people in the court contemplated the proceeding which the attendance of Italian witnesses. This one point showed that Sacchi was not fit to be believed, or to be relied on in the smallest degree. He now came to the important witness on this trial—important, undoubtedly, of all; he did confirm the facts sworn to by the man named Giuseppe Rastelli, whom he reproved for considering one of the active agents of the Milan commission who now appeared, from the evidence their Lordships, to have been the most active agents any commission employed. He hoped he would not be understood, as to his view of the commission. They had heard a great deal as to the motives which caused it to go on, and a great deal also with respect to the way in which it conducted itself. In respect to the head of that commission, Mr. Cook, he had no interest in what he thought of him. He would say that he had ever heard anything that could induce him to speak differently. He felt a disposition to praise the man, but he owned that disposition received a considerable and involuntary check, and that Mr. Cook could step into the mean office which that man imposed on him. Mr. Cook was a sound lawyer; his mind was cultivated and extensive scientific knowledge; no man possessed greater knowledge of legal points; but of all the men in Westminster-hall, he considered was not one, in his opinion, who could cross-examine witnesses with

effect. His whole habits, pursuits, and experience, rendered him unfit for a situation in which it was of the utmost importance to check willing witnesses in the course of their depositions—and also to check those who were placed under him, when he disapproved of the means by which they induced witnesses to come forward. With regard to Col. Browne, he was sure it was not disrespectful to a military man to say, that, in a situation which required so much caution, so much prudence, he could hardly be supposed capable of giving any efficient assistance. It therefore resulted, that the only active commissioner was Mr. Powell, who, they now found, was the attorney for this prosecution and, he believed, the very first attorney who was ever able to collect evidence, and to bring forward witnesses; by the exercise of those compulsory powers that were allowed on this occasion. Colonel Browne was no more than the hand that brought the witnesses before Mr. Powell. Col. Browne was the agent of this government, employed to operate on the government of Austria, and he had the power of bringing before Mr. Powell all those witnesses whom Majocchi and Sacchi mentioned to be necessary. This was the only instance in which the Attorney was permitted to act as the sole commissioner. He would make no observations on so novel a mode of proceeding. He was sorry that Mr. Cook had taken the office; perhaps he was not displeased that Mr. Powell was the person who actually filled it. Rastelli was first engaged as a witness, and then a courier; and he begged to call their Lordships' attention to what struck him as a great impropriety—the employment of the same person in this double capacity. It was very hard, in those times, when he was employed as a courier to this commission, to add to his labours the exertion of a witness. There was no necessity for a farther stimulus to action. Considering that, during a considerable time, this witness and others had an opportunity of watching the conduct of her Royal Highness, it did appear to him to be a most incorrect proceeding, one that never before had taken place, to blend the character of witness and courier in the same individual. And he must say, that Mr. Powell, independent of the power which he otherwise possessed for procuring witnesses, had, in the first instance, a very great advantage, by the preparations which Rastelli was enabled to give to those whose testimony he wished to obtain. Rastelli went to Frankfort to see Maurice Credi, and so did Mr. Cook. That person was not examined as a witness, but there could be no doubt but that he was one of those on whom Rastelli made his experiment. Annette Preising was also sought after, and brought to this country, but she was not examined. It appeared curious to see Rastelli thus, as it were, beating up for recruits. It was evident

why should Rastelli be the courier to carry those letters? Were the families of the witnesses such extraordinary sticklers for legal evidence that they would not believe on hearsay; and that when the hand writing was submitted to them, they would not believe it unless it was proved to them upon oath? Why, but Rastelli stated that he did not know their families personally.

The LORD-CHANCELLOR. — What page?

Mr. Denman.—Page 413.

“Who are the persons with whom you came? Some I know, some I do not know; I know some, because we came together, but I had never seen them before.

“Who are they? They are various; I knew them by sight before, but I had no intimacy with them.

“State their names? Of some I can say, the others I do not know.

“State the names of those you do know? Carlo Rancatti, Geralimo Mejani, Paolo Oggione, (these, he hoped, were still in the country, as they had been examined as witnesses.) Philip Riganti, and Henrico Baie.”

Neither of the two last witnesses had been examined as witnesses, and either of them, having accompanied all the witnesses whom Rastelli had accompanied, might have gone with Krous, and delivered the letters of the witnesses to relieve the fears and remove the apprehensions which their relations might feel. When Mr. Powell, not cross-examined, but examined with all proper consideration by their Lordships, said that he had fully expected Rastelli's return on the 3d of October, he stated that he had given special instructions for that purpose. That was, Mr. Powell thought it essential that Rastelli should be present at the trial that was going forward—now going forward in this House of Peers, and not at the trial in any other place, of which he (Mr. Denman) hoped there was little chance. Mr. Powell then told their Lordships that he had every reason to expect that Rastelli would be soon in England. This Mr. Powell had mentioned two or three times in his evidence. At last Mr. Powell, on the Saturday, stated that in consequence of the instructions he had sent to Colonel Browne, he had no doubt that Rastelli would return immediately. These remonstrances were to have the effect of curing even the fever. The instant Mr. Powell's instructions should be presented, Rastelli was to take up his bed and walk. Now he [Mr. Denman] thought he had heard it read in the correspondence that there was some shuffling suspected on the part of Rastelli, because perhaps he had heard that the pillory though abolished in England as to other offences, was still applicable to perjury. He was also sick of his confinement, and probably the longer it

continued the sicker he became. Colonel Browne wrote back that he would “press Rastelli the moment he left his, and that he was also on his pillow.” Yet, in spite of his shuffling, in spite of the sickness of confinement, in spite of the great difficulty which Colonel Browne communicated to Mr. Powell, in spite of all these things, on the 13th. of October, stated to their Lordships that he had every reason to believe that Rastelli would be very soon in England. Mr. Powell again stated that he had not had the least idea that Rastelli would be wanted again by their Lordships. Why, then, had he ordered him to be back on the 3d. of October? Why, during the trial before their Lordships, if he had no ideas that he would be wanted again—why had he said that he never would have sent him if he had not felt an impression that he would be here on the 3d. of October? Another person, too, might have tranquillized the minds of the families of witnesses. But when Mr. Powell was again examined, on Saturday, the 14th. of October, he told their Lordships that, in addition to letters to the families of witnesses, Rastelli carried papers to be legalized which were to be presented, not to the House of Commons, but to their Lordships on the 3d. of October. What those documents might be it was difficult for him to comprehend. Only it was clear, from this part of Mr. Powell's evidence, that the whole truth was not disclosed on the first occasion, for Rastelli had carried papers to be legalized, as well as letters to the families of witnesses. It appeared, then, that the communications of a client, he supposed he must say, to the Attorney, stating that a witness was ill of a fever, were protected from enquiry as confidential correspondence. Mr. Powell said, if he (Mr. Denman) recollected right, that he stated to Rastelli that he must be back on or before the 3d of October. But he stated on another occasion “O! I did not expect that he would be called on as a witness till the bill came before the Commons.” What difference, then, did it make whether he was back on the 3d of October? None whatever.—But in a letter written by Mr. Powell and dated Lincoln's-inn, 13th September, another statement was made; there it appeared that Rastelli had not been sent solely for tranquillizing the Italians, or legalizing papers, but it appeared that he was sent for these reasons: “I now return you Rastelli, as I conceive he may be of use to you,” (the resident commissioner at Milan, and the most active in getting up evidence.)—Was this for the sole purpose of tranquillizing the feelings of Italians? No; it was to be of use to Colonel Browne, and his instructions were “Come again with all the information you can collect.” He (Mr. Denman) really did not mean to falsify the

evidence of Mr. Powell, he only asked whether if a gallant, and not a very well informed witness for the Queen had given this evidence, they would not have heard a thrill of delight, a rumour of applause, a triumph of joy trumpeted through the streets of London, that he had been detected in something like prevarication and falsehood. When addressing their Lordships upon this subject he would mention as an instance of the nefarious industry exerted against the illustrious individual for whom he had the honour of addressing their Lordships, that he found a statement in a daily paper respecting the evidence of Lieutenant Flynn, as to a paper which he had shown to be of no importance, that "this witness had been consigned to infamy." Nothing could be more wide of truth than this statement. But he now referred to it as connected with the evidence of Mr. Powell for the purpose of contrasting the evidence of a witness who manifested the most nervous trepidation and most hesitating manner with the evidence of Mr. Powell, the attorney for the prosecution, and asked whether there was not more prevarication in the evidence which he had just read than in the evidence of Lieutenant Flynn. In the same paper it was stated that the husband of Madame Martini was a bankrupt. Their Lordships could not fail to recollect the decision and the indignation with which that lady had repelled the insinuation. It really was not worth his while to notice such falsehoods, but they showed the uniform part which the venal press acted against her Majesty; they were assiduous in denying her the presumption of innocence which belonged to every accused—they resorted to every art of misrepresentation, distortion, and calumny.

LORD DARNLEY (we understood) asked what paper it was the Learned counsel read from.

Mr. Denman.—It is the *Morning Post*. The whole of the evidence against her Majesty had been sworn by discarded servants, dismissed from the service of her Royal Highness for misconduct, and dismissed by that very individual with respect to whom they swore to improper intercourse on the part of her Majesty, and against whom they must entertain every feeling of humiliation and resentment. He complained that he and his Learned Friends were still in entire ignorance as to the extent of the powers with which the Milan commission had been invested; but, from what had appeared in evidence on that subject, he thought it would have been proper that they should not have been permitted to exercise such powers as they had used: for he thought that it would not have been possible to have pitched on a worse person as a witness than that Rastelli, whose absence her Majesty's legal advisers

had now so much cause to regret. If they had him now, in what a different situation would they have been from that in which they had first seen him. It was in vain to call his absence a loss to her Majesty's cause, and to say that some equivalent should be allowed: the loss was irreparable: their Lordships could not grant any thing like an equivalent: as well might their Lordships attempt to recall past time, or to arrest the present moment, as to grant any adequate compensation for this loss. Would their Lordships propose to give him and his Learned Friends a Cuchi as an equivalent, to strike his evidence out? That was done already: his testimony was destroyed. Would they, in return, give up Ragazzoni and his Adam and Eve scene? That too was already gone: all the evidence of all the other witnesses was destroyed—annihilated. What equivalent, then, could be granted for the absence of Rastelli? In the whole mass of the evidence for the prosecution, in the whole 500 pages, it was impossible to give them the benefit of any respectable testimony which would be equal to the disreputable evidence which they had lost. On the subject of Rastelli's agency, Philippo Pomi had given most important evidence. He stated that, having gone to the Barona, he was there met by several persons, including Rastelli and De Mont; and Rastelli told him that as he had been in the house of the Princess of Wales, he was an individual who would make a good witness, as he must know many things against her Royal Highness. Pomi replied, that he knew nothing of the scandals thrown out against her Royal Highness, and on her house; and that he had seen nothing but what redounded to her praise, and entitled her to his admiration. "But," said Rastelli, "never mind that; here is De Mont, who has made a good day's work; she has done well for herself; and, Pomi, if you have any thing to depose, now is the time to come forward and obtain something." Afterwards they went to an inn and drank; and what was said there? "Rastelli told me that De Mont was still in the service of her Royal Highness, (a fact that had been carefully concealed by herself,) and then I found out that she was here. I said I had been a long time in her Royal Highness's house, and knew nothing against her. He said I know nothing of her either; but cannot you say you have seen Bergami lifting her on an ass, and putting his hand under her petticoats? I replied that that was a real falsehood, for I had never seen Bergami treating her otherwise than with the greatest respect;" and so this application ended. But was it to be supposed that every other similar application ended in the same manner? Did their Lordships suppose that Ragazzoni, who spoke to the Adam and Eve scene, did not speak in consequence of a similar applica-

tion? It appeared, not only that money had been offered, but that in some instances these offers had been backed by the influence of the Hanoverian Government; and under such circumstances, any man would readily see the means of making his fortune. The witness Pomi had stated things from which it was seen that Rastelli was not the only agent who had been similarly employed: from his evidence it was clear that Reganti had been employed in the same manner. Was it not, then, a great deal, that he and his Learned Friends, without any list of witnesses, without any specification of time or place, should have been able to detect two of the agents of this conspiracy—Rastelli who had been taken away, and Reganti, who had been kept back? At page 890, it would be found that Rastelli had said to Pomi, "Now is the time to get a fortune, and to make yourself a man. Have you not seen Bergami, when assisting the Princess to mount her donkey, put his hands under her petticoats?" To which Pomi replied that it was a falsehood, &c. This evidence was of considerable importance; for, on referring to the early part of the evidence, their Lordships would perceive that Majocchi, at Genoa, would soon have made a heavy charge of embracing, when her Majesty was only lifted on her ass by Bergami. It was thus that truth was made the foundation of falsehood. He meant to have stated to their Lordships that Reganti was at present in this country, and consequently might have been called to contradict Pomi; but the only person called with the view of contradicting any part of the whole body of evidence for the defence, was Captain Briggs, on whose testimony he should make one or two observations before he closed his case. He now begged leave to direct their Lordships' attention to the evidence of Omarti, the Clerk. That individual said he had repented of his conduct and he (Mr. Denman) wished that others had also repented before they carried this business to such a length. This witness stated that Vilmarcati applied to him to possess himself of papers relating to her Majesty's defence, that he had the scandalous weakness to agree to the proposal, and that he received 300 livres for papers so furnished to Vilmarcati. Now his Learned Friend's cross-examination, in every part of it, clearly showed that they were acquainted beforehand with some parts of the transaction. The witness had stated that he went to Colonel Browne to complain that Vilmarcati had not fulfilled his promises of reward, and that Colonel Browne shut the door to prevent the conversation from being overheard; and his Learned Friends on the other side, by their mode of cross-examination, admitted that Colonel Browne shut the door, but wished to make it appear that he did so to make the witness tell his name. Well,

then, the man said, "I got the papers for Vilmarcati several times, and I repented in the beginning of the year." Then he was asked by the Solicitor-General, if he did not so late as July furnish Vilmarcati with papers relative to the Queen? By that very question it was admitted that something of the kind was going on with Vilmarcati, and, therefore, he (Mr. Denman) did not require any more of that man's evidence. He and his Learned Friends had no list of the witnesses against her Majesty; but their Lordships would perceive that his Learned Friends on the other side had had the power of knowing every witness who had been called for the defence, from the papers furnished by this clerk. Why, then, as the case now stood, there was a case of as great and heavy imputation against those gentlemen as ever he had seen made out in a course of justice. He would not deny that it was due to Col. Browne to make farther inquiry into the subject hereafter; but he would say, that with the knowledge which Colonel Browne had of the business, it was his duty to be here to stand a cross-examination, if he could, and contradict the testimony of the clerk. His Learned Friends on the other side could not have been ignorant of the process against Vilmarcati at Milan, which had been dismissed, not for want of proof, but solely because the papers to which it referred were of no importance. (The Attorney-General was understood to say that he had not been aware of that process.) He thought his Learned Friends must have known of it, and therefore he had been induced to make this observation, subject to any remarks that they might think proper to make on it afterwards. Still there was every reason why Colonel Browne should have been on the spot from first to last, to explain his conduct as far as he was connected with the Milan commission. He had no business to be at Milan in order to attend to the duty imposed on him by others as an agent; his first and paramount duty was to be here to vindicate his own character. It most undoubtedly could not but be matter of surprise to him and his Learned Friends, after some of the ablest cross examinations that he had ever seen applied to any witness, and such as must have shaken their case to pieces if it had been a false defence that had been set up: it could not but be matter of surprise after this, that only one witness had been called to the bar to contradict any part of the defence. The fact to which that one witness had been called he was now about to notice. Lieutenant Hownam, who had been several years in her Majesty's house, who had seen Bergami originally in the station of a courier, and afterwards promoted in her Majesty's service, and at last taking a chair at the table of his Royal Mistress, in consequence of the rank to which he had been promoted, this gentleman



swore that he had never seen any impropriety of conduct between these two persons. His evidence bore every mark of candour and truth, for he never once strained his memory in such a manner as to be betrayed into a mistake. But he is asked if he ever recollected, while walking the quarter-deck with the captain, to have said any thing about going on his knees before her Royal Highness, and intreating her, with tears in his eyes, not to take Bergami to her table? And, mark his answer—"I do not recollect it, and therefore I do not believe it ever took place at all." Their Lordships knew that matters of belief were not evidence, unless it could be proved that the absence of belief was impossible; but the Counsel for her Majesty had not taken that objection, because they wished the House to know all that these two honourable men had to say. Their Lordships would bear in mind that no preparation had been made for Bergami's dining at the table of her Royal Highness: that arrangement was made at an inn where there was no great accommodation. It was there where the courier was found dining at the table of his mistress, when she was snatching her dinner without ceremony. Now it was quite impossible, under such circumstances, that Lieutenant Hownam, a young man, looking forward to promotion in the navy through her Majesty's influence, should have taken such a freedom; it was impossible for any man to suppose him guilty of such indiscretion. He had no doubt that Captain Briggs meant to speak the truth, though, for the reason he had assigned, what he had stated could not be true. He would not say that at the time this conversation was alleged to have taken place, Mr. Hownam saw no more impropriety in Bergami's dining at her Majesty's table than he now thought there was in that circumstance, but it was possible that, as Mr. Craven had thought on the subject of her walking with Bergami, he might have been of opinion that Bergami's dining at the same table, tho' not improper, was yet imprudent, and that it would have been better not to have made that arrangement. With this impression on his mind, it was not unlikely that he might have said to Capt. Briggs, "If I could have prevented it, I would have gone on my knees, and with tears in my eyes, I would have entreated her Royal Highness." That was, in his opinion, the only likely solution of the discrepancy in the evidence of two gentlemen; for he was convinced that they were both honourable men, and therefore, he would not say a word to impeach the one for the purpose of defending the other. This circumstance and that of Lieut. Flynn's saying that his name was signed to a paper which he had not signed, were the only things in the whole mass of the evidence for the defence that required any apology. There was nothing

else, either in the facts stated by the witnesses, or in the mode of stating their evidence, in the case which had been sent up by them, that called for apology or explanation. He called on their Lordships then to consider what was the defence set up for her Majesty. When he looked at the substantive case which had been proved on her behalf, he was bold to say that there was an end of this Bill, if there was either common sense or common justice in England. The very circumstance that Lady Charlotte Lindsay had continued in the service of the Princess from Naples to Genoa, and from Genoa till the year 1817, was in itself an acquittal in her own mind of her royal mistress from the calumnies circulated against her. A long list had been ostentatiously given of about a dozen persons, from St. Leger down to Wm. Burrell, who had withdrawn themselves from her Majesty's service, because there was something improper in her demeanour. If so, was such an opportunity ever before afforded of establishing that impropriety by testimony of the most decided nature, if indeed, any impropriety had really existed. It was not to be believed, that if it were really and *bona fide* thought, at that period, that her Majesty had misconducted herself in the manner described, she would not have received some remonstrance from home—that she would not have been warned, that express charges had been made which ought to be refuted, in order to prove that she did not degrade herself by frequenting low company, and indulging in infamous habits. Captain Briggs and Capt. Pechell must have heard these reports; and Lieut. Flynn might have been resorted to on the subject, if necessary. Nothing of the kind had been done; and not one of these dozen persons had been called to establish a single fact which could be the ground of the remotest suspicion. It was difficult to imagine how any human being could have the cruelty to allow his accusation to sleep for 6 years. Had it been brought forward soon after the transactions occurred, many circumstances, now impossible to be explained, might have admitted of an easy and a natural explanation. Rumours and reports had been allowed to ripen into the most malignant charges, and it was only to be lamented that any circumstances in the sudden elevation of Bergami should have given plausibility to the statements of the blood-hounds of scandal with whom the Queen had had to deal in the neighbourhood of Milan. If that were a fault, it was a fault of indiscretion, but no impropriety; and it was only indiscreet, because Mr. Craven had warned the Princess of the spies by which she was surrounded; because Lieut. Hownam had probably made a similar remonstrance, and because she has had the experience of 1806, and the knowledge of Baron Ompteda. On these grounds only he would

allow it to be indiscreet, because, in his conscience, he was convinced, in every other point of view, that the circumstance had been most satisfactorily explained. The world had been told, that all the witnesses were to be called, in whatever way their evidence might operate. It was to be supposed, therefore, that his Learned Friend, who concluded with a prayer for the Queen, to give her "the victory over all her enemies," which seemed very likely to be granted, had thought that the Earl of Guilford, who, without restraint or disguise, had twice sat at the table of the Princess with Bergami, (for the Princess, instead of avoiding, courted the society of accomplished and polished Englishmen like the Noble Earl,) would have been able to prove something against the Queen; and, consequently, that out of mere charity he was not to be produced on the other side. In the same way, it was to be supposed that the Attorney-General had thought that Lord Glenbervie, who had made a voluntary tender of the services of his lady, when, in some way or other, all the English suite had dropped away from the Princess, could only give testimony to her disadvantage. For the same reason, Lady Charlotte Lindsay, who had not seen the slightest impropriety, must have been withheld. Lord Landaff, too, had not been called upon by the supporters of the bill; because his Lordship, as well as Mr. Craven and Sir Wm. Gell, were well acquainted with the habits of the Princess, and must have known them to be impure.—They must have looked upon Dr. Holland as a person whose evidence would also be most injurious: but, even if it were so, the counsel for the bill, in calling them in chief, would at least have had an opportunity of drawing out facts by the easy and ordinary process of examination, without resorting to a cross-examination, which they so well understood, and of which, in the course of this inquiry, they had given such striking examples. Was he to be told, that such witnesses as those he had enumerated were immaterial, and proved nothing against the main facts of the case? He asserted, on the contrary, that they gave those facts a most decisive negative, and showed the utter impossibility of an adulterous intercourse. From first to last there had been no attempt to disguise, no attempt to conceal; the promotion of Bergami was attended with circumstances naturally to account for it, and there was nothing in his manners to mark that improper assumption of privilege which an illicit amour would have entitled him to claim. When the bill was founded on the supposition of the low, degraded, and mental capacity of the individual so promoted, it would have been but fair to inquire under what circumstances he was received into the service of the Princess; under what circumstances she chose him for her senior chamberlain; and whether she could

have raised a man who would have filled the office with more ability, discretion, and propriety? Perhaps he ought not to go through with particularity all the evidence called in exculpation, although that might be considered his peculiar duty. Otherwise, he should refer the House to the testimony of Wm. Carrington and John Whitecombe (the servants of Sir Wm. Gell and Mr Craven), who proved that the whole story of the illicit connexion at Naples was the fabrication of De Mont. In the same way he would advert to all the subsequent witnesses—to Sicard, to Dr. Holland, to Mr. Mills, and to every person that had been produced in succession. They had disproved the case on so many points as to deprive it of every vestige of credit; they had contradicted the testimony of witnesses, who, indeed, already stood self-contradicted and self-condemned. The counsel for her Majesty had done more than they would have been called upon to do in any court of justice, when they condescended to give an answer to such animals as had been placed at the bar on the other side. Every opportunity of contradiction had been successfully seized; and on every single point where it was possible to show falsehood, that falsehood had been distinctly exposed. It was impossible that the House could give ear to any such insinuation as that those who were discredited in every particular, where it was possible to discredit them, were entitled to belief as to facts which rested on the knowledge or invention of themselves alone. It was enough to mention the names of Sinigaglia, Scharnitz, and Carlsrhue, to bring to mind the atrocious attempts at subornation, which would convert the most innocent acts into the most disgusting exhibitions. He was quite aware that it would be expected of him, that he should say something on the subject of the witnesses they (the Queen's counsel) had not called; and here, as in every part of the case, he begged leave to contrast, in principle and circumstances, the situation of the accuser and the accused. Every prosecutor who pretended to come forward in behalf of public justice, was bound by the office he had undertaken to lay before the jury all the evidence that could bear upon the facts. What, then, was to be thought of a public prosecutor, who was contented with setting up a *prima facie* case of charge against the first subject in the realm, at the same time knowing or having the means of knowing that that *prima facie* case was capable of being destroyed by the clearest evidence? What was to be said of that prosecutor if he declined to make the necessary inquiries, or perhaps kept the evidence in his pocket, leaving a defendant to take his chance whether he could not by other means establish his innocence. He (Mr. Denman) knew not with what face the other side could call upon them for additional

witnesses, when the prosecutors had been so abstemious. At least, this was new in the history of English justice: it was quite new, that a case of belief and suspicion, extorted on cross-examination, should be tortured into the inference of guilt, when that belief and suspicion were capable of being removed in the first instance. Why had not the charges against the Queen been brought to the test of complete investigation, if the prosecutor intended honestly to perform his duty? He entreated the house to look at the effect of this proceeding in the present case. The Queen was compelled to take her chance in every endeavour to refute the accusations, the substance of which had been for years collecting: she must take her chance as to the frailty of memory, after the lapse of so long a period; as to the weakness of the nerves of witnesses, for the first time brought before an assembly like the present; as to the delusion of memory, and the faintness of the impression of passing events, and as to the petty triumphs produced on every occasion where a witness might make an accidental slip, and thus cast a momentary shade over the veracity of his statement. Her Majesty, however, had gone much further than this; she had shown, not only that the witnesses, taken as individuals, had not spoken the truth, but that such practices had been employed for collecting the evidence, such bribes had been offered, and such despicable means resorted to, as perhaps were never before disclosed in the history of English justice. The artifice of Dr. Crook had not been discovered till many years afterwards; nor was it known how much the value of the opinions he had obtained was diminished by the fact that he had purchased them. What was to be thought of these discarded servants, these domestic traitors, who voluntarily offered themselves as witnesses against the life and character of their benefactress, and who, for selfish purposes, appeared against her to destroy that reputation on which they had previously passed the highest encomiums? "There is one topic (continued Mr. Denman) on which it is impossible for me not to comment. We have been told that the conduct of her Majesty furnishes an inference in support of the charges in the preamble. I am ready that the defence shall stand or fall by that test; and I ask, whether it be possible for a person so degraded, in the first place, to have turned away all her servants, at the moment when they had possessed themselves of the most important and damning secrets, and afterwards to have proceeded in that low attachment, that disgusting debauchery, with an individual who had been elevated for the most criminal purposes, in defiance of all the principles with which human nature was ever acquainted? It is one of the conse-

quences of such an infatuation that it destroys all worldly considerations—

"Not Cæsar's empress would I deign to prove."

And, if so would her Majesty not have been willing to hide her head in any part of the Continent, in the enjoyment of that luxurious profusion, in which she had been tempted, by offers from this country, to continue even with great splendour? Would she not have been most anxious to retire to Pesaro, or to the Lake of Como, and there to expend upon her favourite the vast income to be appropriated to her use? Is it possible to believe, that, after the loss of all that makes life dear and character valuable—after vice and profligacy had become her daily habits—that her Majesty would have sprung to this country, irritated and stung by nothing but this detestable accusation? Look, my Lords, at the conduct of her nameless and unseen prosecutor, and then at the conduct of my illustrious client. For a series of years she has been the object of unceasing persecution. The death of her only daughter was immediately followed by this frightful conspiracy. The decease of her last remaining protector, whose life, while it was prolonged, was still a protection, though his affection could no longer be displayed, succeeded not long afterwards. It was announced to her, not in the language of kind respect, or even of decent condolence, but in a shape which forestalled the decision of parliament upon this great question. Cardinal Consalvi was the instrument of stripping her of her rank, and of depriving her of those honours to which her station in society laid claim. Her title as Princess Caroline of Brunswick was stated in the face of her passport; and the first transaction of this new reign, in which even traitors were spared and felons pardoned by a lavish exertion of the royal prerogative of mercy, was the most illegal and unchristian act yet recorded in the annals of the British monarchy. To the Queen it was no new reign of peace and amnesty, but the commencement of a prosecution in which malignity and falsehood were united for her destruction. Her name was excluded from the Liturgy; but, when it was forbidden that the prayers of the people should be offered up for her, their hearts made a full compensation for that odious exercise of unjust authority. Under such circumstances, what shall we say to the bill before the house? As a Divorce Bill it exists no more: the mere fact that the crime imputed was committed six years ago dismisses it with contempt; and the fact of the letter of license, written so recently after the marriage ceremony was performed, is of itself an answer to any claim on the part of the husband. But it is a bill of pains and penalties—a bill of degradation, dethronement, and disgrace;

and if your Lordships shall determine to proceed against this persecuted and injured woman, I can only say that it is your pleasure to do so. But sure I am that your honour, as peers—your justice, as judges—and your feelings, as men—will compel you to take part with the oppressed, instead of giving the victory to the oppressor! I was about to observe that there were certain individuals, who had not been called as witnesses—simply for this reason—that our case is already proved, and that we do not think it decent, or consistent with the principles of justice to overload the minutes, already so unwieldy, by admitting that we are bound to go a single step further. We have often heard of challenges and defiances; we have been told that Bergami might be called to the bar, to state that the whole charge was fiction; but this is one of the unparalleled circumstances of this extraordinary case. From the beginning of the world no instance is to be found where an individual charged with adultery has been called to disprove it. Yet, for the first time, we are to be compelled to put him to his oath! The answer is in a word, there is either a case against us, or there is no case: if there is no case, there is no occasion for us to call a witness; and if there be a case, no man would believe the supposed adulterer, when he was put forward to deny the fact. On this subject the nicest casuists might perhaps dispute, with a prospect of success, on either side of the proposition; but I firmly believe that the feelings of mankind would justly triumph over the strictness of morality, and that a witness so situated would be held more excusable, to deny upon his oath so dear a confidence, than to betray the partner of his guilt. Even perjury would be thought a venial crime, compared with the exposure of the victim of his adultery. Surely, for the sake of dragging forward such a witness, the principles of our nature, and the heart of man, are not to be sacrificed even upon this occasion, to which so many principles have been made the sacrifice. Recollect, my Lords, that this is a criminal prosecution of the highest kind, and requiring the clearest and the strongest evidence collected and manufactured during six years of unceasing vigilance and unremitting persecution. We have heard of the distinction between a Queen of grace and favour, and a Queen of right and law; but her Majesty has been taught by bitter experience, the wider difference between a husband of affection and guardianship, and a husband of jealousy and persecution! After all ties, divine and human, have been broken up on his part, he still thinks it possible to exact, from the alienated and injured object before you, the most scrupulous attention, not only to the substantial virtues of her sex, but to the most insignificant appearances of

feminine decorum: Let me ask you then, what is it that can justify you in passing such a bill? Without looking to the principle, (for your Lordships know that I am not at liberty to do so, and I only advert to it that I may not be supposed to wave any objection,) I say that there is not one page of evidence in this whole volume to warrant you in giving it your sanction. There is not a single piece of evidence proceeding from any respectable quarter, which has not been answered or explained; and the inventors of the most minute fabrications have been followed with success through many of their windings and minute ramifications. I know that rumours are abroad, of the most vague, but, at the same time, of the most injurious character; I have heard them, even at the very moment we were defending her Majesty against charges, which, compared with the rumours, are clear, comprehensible, and tangible.—We have heard, and hear daily, with alarm, that there are persons, and these not of the lowest condition, and not confined to individuals connected with the public press—not even excluded from your august assembly, who are industriously circulating the most odious and atrocious calumnies against her Majesty. Can this be? and yet can we live in the world, in these times, and not know it to be a fact? We know, that if a jurymen, upon such an occasion, should be found to possess any knowledge on the subject of inquiry, we should have a right to call him to the bar as a witness. “Come forward,” we might say, “and let us confront you with our evidence: let us see whether no explanation can be given of the fact you assert and no refutation effectually applied.” But to any man who could even be suspected of so base a practice as whispering calumnies to judges, distilling leperous venom into the ears of jurors, the Queen might well exclaim “Come forth, thou slanderer; and let me see thy face! If thou wouldst equal the respectability even of an Italian witness, come forth, and depose in open court! As thou art, thou art worse than an Italian assassin! because while I am boldly and manfully meeting my accusers, thou art planting a dagger unseen in my bosom, and converting thy poisoned stiletto into the semblance of the word of justice!” I would fain say, my Lords, that it is utterly impossible that this can be true; but I cannot say it, because the fact stares me in the face; I read it even in the public papers; and had I not known of its existence in the dignity of human nature, I would have held it impossible that any one, with the heart of a man, or with the honour of a Peer, should so debase his heart and degrade his honour? I would charge him as a judge—I would impeach him as a judge; and if it were possible for the blood Royal of England to descend to a course so disgraceful, I should fearlessly assert, that it was far



more just that such conduct should deprive him of his right of succession, than that all the facts alleged against her Majesty, even if true, to the last letter of the charge, should warrant your Lordships in passing this bill of degradation and divorce. I well know that there are persons to whom, under the circumstances I think it right to allude, who have had an opportunity of reading a vast variety of depositions against the conduct of the Queen. To those noble individuals I may distinctly say, "You, at all events, must vote for an acquittal. I know nothing of the facts brought before your secret committee, but I know that it is impossible for any rational or honourable man to have presented such a case as has been proved at the bar, as a ground for degrading and dethroning the Majesty of England." The facts proved before that committee must have been of a far more grave, more disgusting, and more infamous description; and whether they have been proved, or whether the witnesses, publicly examined, have not dared to swear up to their original depositions, I am confident that the committee never meant it to go forth, that a case of key-holes and chamber-pots, but of notorious and undeniable guilt, ought to be the ground-work of this public prosecution. Then I ask your Lordships, has that case been made out? Is there any man, who can read the evidence even against the Queen without a perfect conviction that she has been most malignantly traduced? What the boatmen on the Lake of Como may have said to those who were gaping wide for scandal, I know not; what reports may have been circulated by her enemies, I know not; what the result would have been, had the facts stated been established, I know not; but I do know, that they have not been proved—that they are false, calumnious, and detestable. Nay, I say one word more to your Lordships—I know that a supposition prevails, that a spirit has gone abroad, dangerous to the constitution and government. I have heard it said, that a spirit of mischief was actively at work, among the friends of her Majesty; but the same person who uttered that memorable expression, in a few weeks was obliged to admit that it was false, because the truth could not be concealed, that the whole of the generous population of England had enlisted themselves with ardor on the side of the innocent and the injured. At the same time, it is possible that both may be true; the sound and middling classes of society may feel acutely for the situation of her Majesty; and there may be, also, some apostles of mischief lurking in a corner, meditating a blow at the constitution, and ready to avail themselves of any opportunity for open violence. If that be so, the generous situation to which I have alluded would be aggravated by a verdict of guilty, while those mischievous and

disaffected men would deprecate nothing half so much as to see your Lordships, in the face of the power of the Crown venturing to pronounce a verdict of acquittal for a defendant so prosecuted. I trust your Lordships will not allow the idea of having fear imputed to you to divert you from the straight course of your duty; it would be the worst of injustice to the accused, and the worst of cowardice in yourselves. I say, therefore, if your own minds are satisfied that all that has been proved has been scattered "like dew drops from the lion's mane," you will never hold yourselves justified in pronouncing a verdict contrary to the evidence, because your conduct may be imputed to the dread of a mob; or, to use the jargon of the day which I detest, the apprehension of a radical attack. You have but one course to pursue, and that course is straight forward? It is to acquit her Majesty at once of those odious charges. We may truly say, that as there never was such a trial, so there never existed such means of accusation. Before I conclude, I must be permitted to say, that during the whole of this proceeding (though personally I have every reason to thank the House for its kindness and indulgence) the highest gratification resulting to my mind has been, that with my Learned Friends I have been joined upon this great occasion. We have fought the battles of morality, Christianity, and civilized society throughout the world; and, in the language of the dying warrior I may say,

"In this glorious and well-foughten field  
"We keep together in our chivalry."

While he was achieving the immortal victory, the illustrious triumph, and protecting innocence and truth, by the adamant shield of his prodigious eloquence, it has been my lot to discharge only a few random arrows at the defeated champions of this disgraceful cause. The House will believe me when I say, that I witnessed the display of his surprising faculties with no other feelings, than a sincere gratification that the triumph was complete: and admiration and delight, that the victory of the Queen was accomplished. This is an inquiry, my Lords, unprecedented in the history of the world: the down-sitting and up-rising of this illustrious lady have been sedulously and anxiously watched. She uttered no word that had not to pass through this severe ordeal. Her daily looks have been remarked, and scarcely even her thoughts escaped the unparelled and disgraceful assiduity of her malignant enemies. It is an inquisition, also, of a most solemn kind. I know nothing in the whole race of human affairs, nothing in the whole view of eternity, which can even remotely resemble it; but the great day when the secrets of all hearts shall be disclosed!



"He who the sword of Heav'n will bear  
Should be as holy as severe!"

and if your Lordships have been furnished with powers, which I might almost say scarcely Omniscience itself possesses, to arrive at the secrets of this female, you will think that it is your duty to imitate the justice, beneficence, and wisdom of that benignant Being, who, not in a case like this where innocence is manifest, but when guilt was detected, and vice revealed, said—"If no accuser can come forward to condemn thee, neither do I condemn thee; go, and sin no more."

A pause of some moments occurred after Mr. Denman had concluded; and the Earl of Liverpool had risen to move the adjournment, when

Mr. Brougham advanced to the bar, and observed, that although the summing up of the case of the Queen was now closed, if the other side intended to reply by more than one counsel, he should wish to take till to-morrow morning to consider whether he would not request the House to permit Dr. Lushington, also, to address it.

The Attorney-General answered, that it was undoubtedly his desire and intention to avail himself of the assistance of his Learned Friend the Solicitor-General. This privilege had been allowed on former occasions, and particularly to the counsel for the Queen, when two of them were allowed to open their case.

The LORD-CHANCELLOR said, that the rule, subject to any re-consideration, was, that the House would hear two counsel on each side, and, in his opinion, either party, waving that privilege, did not deprive the other of the right to exercise it.

Mr. Brougham added, that he did not intend to waive his claim, and should therefore request the assistance of his Friend, Dr. Lushington, to-morrow morning.

Adjourned at 4 o'clock.

## House of Lords,

THURSDAY, OCTOBER 26, 1820.

At ten o'clock the Lord-Chancellor took his seat, and after the House had been called over, the Counsel appeared at the bar.

## DOCTOR LUSHINGTON'S SPEECH.

DR. LUSHINGTON assured their Lordships, that had he been left to the exercise of his own discretion, or if he had thought himself at liberty to follow the dictates of his own mind, he would not then have had

to crave their indulgence in addressing them; but on the present occasion, acting in the discharge of his duty to his illustrious client, he was bound to be guided by the judgment of his learned colleagues, who were of opinion that the bearings and details of this extraordinary case were so extensive and important, that even, after all that had been so ably stated by themselves, some little addition might be advantageously made by him. Their Lordships must be aware that the task he had now to execute was one of a very difficult nature. He had to call their Lordships' attention to the subject, when that attention might be considered in some degree exhausted; and what rendered his duty the more painful and difficult was, that he came to the performance of it with ability inferior to that which they had already heard exercised on the subject. But, amidst the difficulties with which he had to contend, he had one consolation—the consolation, that in the judgment of his Learned Friends, this case stood upon so firm a foundation, that even the indiscretion of an unskilful advocate could not injure it. To this he had to add the additional consolation arising from his own firm conviction, that the more this subject was discussed the more satisfied would their Lordships be of the complete innocence of his client. He should endeavour to avoid repetition wherever that could be done. He would as little as possible touch on the topics so ably discussed by his Learned Friends; but their Lordships must perceive that, were he gifted with the greatest powers of eloquence, it would be impossible for him to make himself intelligible, unless he sometimes spoke with reference to points which had already been discussed. It was his duty, in the first instance, to make one or two observations on the charge as a case between husband and wife; and here he must observe, that though, through the whole of his professional life, he had been conversant with cases of adultery, he had to declare that this was the most extraordinary he had ever read or heard of. Indeed, such were the circumstances of this case that he believed, he might safely say, not only that it was unprecedented but that there was not a shadow of semblance to be found in all the records of the courts in which such cases were tried. It was not that it was a case of novelty with respect to the rank of the individual; it was not its want of analogy with other proceedings; it was not that the head of the government was the accuser; it was not that the government formed the very party who prosecuted; it was not all these things, uncommon and extraordinary as they were, which so particularly marked this prosecution; for these were circumstances which might have equally occurred in some other cases; but that which first and above all, distinguished

the present case, was the age of the party accused. He was bold to say, without the fear of contradiction, that no precedent could be found in modern times where a husband sought a divorce by accusing of adultery a wife of fifty years of age. The absence of any case similar in this respect gave to the present a degree of improbability which, he confessed, appeared to him to deserve their Lordships' serious consideration. This observation did not merely apply to wives separated from their husbands, and who had not lived together for many years; but whether living together or separate, there was no instance on record of a prosecution for divorce by a husband against a wife who had attained the age, he would not say of fifty, but even of forty-five. But who ever imagined a case like the present? In addition to the circumstance of the age of the accused, there was here that of a husband who had been for twenty-four years separated from his wife; separated not by any desire on her part, but by his own caprice, by his own act and choice—not in consequence of any misconduct of that wife; for not even a breath of suspicion was at that time whispered against her; but by his pursuit of some wayward indulgence—some capricious fancy. In this way had been broken, for self-gratification, those bonds which the laws of God and man had formed. How, then, did the case stand? Were his Majesty a simple subject, was there a man in the world who would say that he was entitled to any consideration whatever in an application for divorce—that it was possible he could have any injury founded on such a complaint, for which he could claim redress? As a husband, then, the King had no right to seek redress. But then it was said, that this application was not in the name of the King, and that the law in the case of a subject was not applicable to the Sovereign. Let, however, no one presume to say that he is emancipated from obedience to the laws of God; for that assertion, of whomsoever it be made, was founded in untruth and falsehood. It was also said that rank and station in the wife required a more rigid observance of duties than in the husband; but was there any duty which was not reciprocal? Was it not so with respect to matrimonial rights? And was it to be said that there was one law for woman and another for man? or did superiority of rank make the engagement taken at the altar of God less binding? Was the private individual to be told that there was one divine law for him, and another for the sceptered monarch? What was the plighted troth of the husband—what the promise made at the altar? To love and to comfort. But how was that promise observed? Where was the love:—where the comfort? Where should he look for the one or the other? The comfort! what traces were there of it?

If he went back to 1806, was it to be found there? or must he look for it in 1812, at that period of cruel interference when the intercourse between the mother and the daughter was prohibited? Was it to be sought for at the period when the mother was exiled to a foreign land? No: there it did not exist; for wherever she went the spirit of persecution followed her. It was inconceivable that a wife thus deserted, thus persecuted, should now be told that she has been unmindful of her duty, whilst the husband, who was pledged to protect her, had allowed her to pass through the world without a friend to guard her honour. He regretted the discussion of these topics. He knew well that, when the acts of kings were brought before the public, there were individuals who dwelt with triumphant satisfaction on the exposure. No man could feel the difficulty of his situation more than he did, when called upon, in the performance of a solemn duty, to dwell upon such painful considerations; but he owed it to himself and to his client to speak out boldly. There were individuals without number, always anxious to see the failings of kings, that they might turn them into derision. He would, therefore, say as little as possible upon this ungrateful subject. It was almost needless to follow it through all its bearings; but if he were in one of those courts where cases of this kind are usually decided, what should he say to the husband who, insensible of his own honour, allows his wife, for a series of years, to live unprotected, and then offers her 50,000*l.* a-year to live abroad, knowing, as he said, that she is in a course of adultery, but without giving one direction that the adulterous intercourse should cease before she enjoys the large income proffered to her? What would he say to an individual so acting towards his wife; who said to her, not in the language of pardon and admonition, which his Learned Friend had repeated, "Go, and sin no more"—but "Go, and indulge your appetites, continue your adulterous intercourse, and you shall be furnished with ample means for living in splendour with your paramour?" He was happy that he was not under the necessity of introducing another topic. He was glad to state that in this case he was not called upon, by any consideration of duty towards his illustrious client, to say one word by way of recrimination; he thanked God, and the wisdom of his learned colleagues, who had so advised her Majesty, that the case upon which they built their hopes of acquittal was one of perfect innocence, and that, by avoiding recrimination, he should save the house and the country from all its consequences. Their Lordships could not, unless fully prepared to violate the laws of God and man, declare against his client. That venerable bench of bishops, who formed part of the judges,

relating the holy texts : they preached and in- against the wife of their ews of God and of the 1er side, and he was sure : that they would be vio- stered upon the consid- :e, he trusted that their fer him to say a word or les by which they were 1. It was not that he on a point of law ; it was

required technicalities, raw their Lordships' at- ; but to prevent those overmant with the law of misled by the statements ide on the other side.— id recollect that the So- le summing up, had ad- of *Loveden v. Loveden*, fore Sir William Scott,

Court, in 1809—that whose matchless talents ensible of than him—if, prity no one was more ut he was surprised that , the Solicitor-General, only an insulated passage on's opinion, when the he case was decided was able to the present pro- the words conveyed no ; for no man, far less , could have meant to ery was a crime of the rtaluty was to be obtain- the judgment quoted ? It coti said, " It is not ne-

direct fact of adultery ; he case, there would be on for private life. The raved by artificial inf- l acts and circumstances, clves of so suspicious and that adult-ry had been o just and honest man case had been most ably vere acts of criminality above all idea of suspi- also the intercepted let- —letters which, as Sir , a woman the inmate of have been ashamed to rn, as well as some other In evidence, carried with plete conviction that the d taken place. But while gal grounds of evidence, uld recollect that what an evidence, in the Ec- ad not been considered ion for damages : for in rdiot had been given for , therefore, was a most r the other side. The

evidence, indeed, was still stronger in the court of law than he had yet stated it, for it was then proved, that Mr. Parker, against whom the action was brought, had passed a night in the bed-room of Mrs. Loveden. He must now observe to their Lordships, that he thought it not a little extraordinary that his Learned Friend, the Solicitor-Ge- neral, should have selected this case as af- fording any support to his own. But there was another case to which he could refer as an answer to that offered on the other side—he meant the case of "*Mor- timer against Mortimer*," which was decided July 12, 1810. In this case the proofs were so strong, that the counsel for the wife were about throwing up their briefs, and declining to argue it. The Learned Judge, who never forgot that legal justice ought to be admi- nistered, called upon the Counsel to argue the case. It fell to his (Dr. Lushington's) lot to argue it, and ultimately the Judge pronounced that the husband had failed in proof of the adultery having been committed, and he used this important expression :—" I may have a moral conviction of her guilt, but I have no judicial proof." Let it not be supposed that he was asking for a decision in favour of his client on account of a deficiency of proof, and against their Lordships moral conviction. By no means. He called for acquit- tal because there was not a particle of proof in the present case which any honest man, any man of common intelligence, would not consi- der destitute of credibility, and unworthy of his regard. He had adverted to these cases in order that their Lordships might not run away with the erroneous idea that in any other court the crime of adultery was allow- ed to be proved by any other than what was usually considered legal evidence. If their Lordships would allow him, he would state in few words what his case was. Here were circumstances which, when coupled with opportunity were said to lead to a demon- stration of the guilt of the parties. That op- portunity alone should be evidence of guilt against one was a proposition that he was sure none of their Lordships would allow for a moment. He admitted that if acts of inde- cent familiarity were seen, if the same par- ties were observed seeking opportunities of criminal intercourse, then it would not be necessary to go further ; but the circum- stances ought to be before them with the same degree of certainty as the opportunities. It was not necessary to enter into a long ar- gument to shew the character of the witnesses. He would contend that De Mont, Majocchi, Sacchi, and Rastelli, were all perjured. In a common case, after proving the perjury of the principal witnesses, if the judge did not stop him and say it was unnecessary to proceed further, he would indignantly throw up his brief ; for no respectable judge would suffer a case to stand on minor and weaker

evidence when its strong and chief support was destroyed. What! when he had shown that one, two, three, four, and five witnesses had been perjured, was he to be told that he must go on to prove that six, seven, eight, were also perjured, or a verdict of guilty would be found? Where would be the safety of any man were this the practice in courts of law? Could their Lordships expect it to be done? By the wisdom and goodness of Providence men were enabled to detect conspiracies. They were often able to bring to light a foul scheme of conspiracy, by proving the falsehood and rottenness of a certain part of it. But that gracious Power, whose ways are wisdom, had not thought it right to give the means of ascertaining truth beyond the bounds of necessity. Men were only required to have that knowledge which came within the limits of our circumscribed faculties.—But on whom did justice impose the burden of proof? Even those of their Lordships least conversant in law must know that the duty of proving a proposition lay on him who propounded it—that the plaintiff had to make out his action satisfactorily, or to be defeated. And their Lordships would bear in remembrance, that he who sought to take away the life and character of any individual was bound, by every law of nature and man, to do so on evidence not only unsuspected, but unsuspecting. He had no right to take upon himself the odious office of an accuser—to drag his fellow-creature before the bar of the world, and say—"Thus far will I go, and no farther." He was not to say, "I have brought you into court, and, though I cannot prove my charges, you shall not leave the court without suspicion on your character." His failure of proof was the justification of the accused. Since the day in which the folly and superstition of their ancestors first led their victims through fiery ordeals and over burning ploughshares, no man had ever been called into a court of justice, and been compelled to prove his innocence in the first instance. He would now come to the consideration of those facts which his Learned Friends on the other side had boldly stated that they had proved, which they said were irreconcilable with innocence, and were the certain forerunners of guilt and infamy. The first trait, was the conduct of the Queen to Bergami. The Attorney-General, commenting with great ingenuity on the facts of the case, had adverted to the general principles which govern human life, and had said that, if they were to be depended upon, it was clear that the Queen had so conducted herself towards Bergami that guilt must necessarily have occurred between them. "I will show you," said the Attorney-General, "that she was so much under the control, power, and influence of this domineering paramour, that his will was her way, and that his pleasure was her rule; and if,

(continued he,) I prove these facts, it is clear they can have only arisen from the last favours having been granted to her to her paramour." The natural effect of such intercourse, he added, was to alter the respect that ought to subsist between the parties, and to destroy the decency and decorum which ought always to be observed between a person of royal rank and one in the capacity of a menial servant. When once a Princess had thus debased herself, it occasioned in the low individual, the object of her passion, a degree of assumption and freedom to which otherwise he would have made no pretensions. This was the case here, said the Attorney-General: Bergami became more haughty; he took upon himself an air of greater importance, which grew more and more as the intercourse proceeded. Now he (Dr. Lushington) would undertake to prove, that no such freedom, no such familiarity, no such importance, had ever taken place; that there had been no want of respect, that there had been no want of regard to all the decorums of life in either or both of these two parties. Their Lordships would feel that he would not be properly discharging his duty, if, after having made such a bold assertion, he did not point out to them the evidence by which that assertion was most indisputably proved. First, he would refer their Lordships to the adverse evidence, and would call upon them to consider how far it was deserving of any credit. The first witness called was Majocchi, and after him came several others equally respectable. What did Majocchi say? That there was rather a familiarity. What could their Lordships think when they found that this man, the chosen witness of the prosecution, who had been nurtured to betray his mistress, bore them out in their assertion no further than this? Was there, asked the Solicitor-General, an apparent distance kept up between the Princess and Bergami, or was there an apparent intimacy and friendship between them? Rather, replied Majocchi, a familiarity. Their Lordships would no doubt observe the peculiar manner in which the question was put—it was put with his Learned Friend's (the Solicitor-General's) usual ingenuity, who during the whole of this case had formed his questions in such a manner as led the witness easily to collect on which side his answer was wanted. At p. 257, De Mont, in reply to a question put to her, said that from the moment they reached Naples, her Royal Highness and Bergami became very familiar one towards the other; but at p. 265, being asked whether she had made any observation as to their conduct during their residence at Milan and the Villa Villani, she had replied, "No, I made no observations, only that they were very free one towards the other." He thought, however, from what he had both heard and seen of

that witness, that 'she was as likely to make observations as any person whom he ever knew: but all that the Counsel for the prosecution could get from her was, that they were very free one to the other. Now with the exception of the testimony of the two masons, who, it could not be denied, were most admirable judges of decorum and propriety, and who had said that her Royal Highness and Bergami walked arm in arm like husband and wife, they would not find any other evidence called by the prosecution to support this charge of familiarity. He would next call upon their Lordships to consider the evidence which had been given to rebut this charge, and he would now present to them twelve most respectable witnesses, who could speak not only to the time when it was charged that this intimacy was at its height, but who had also been about her Majesty from the time she arrived at Naples till the time she had left Rome. What was their testimony! He would not dishonour it by comparing it with that which had been given on the other side. At page 507 the Earl of Guilford deposed, that between her Royal Highness and Bergami he had never seen any improper familiarities; and at page 508 that he had never perceived her Royal Highness bestow any particular attentions upon Bergami. At page 509, being asked about the deportment of Bergami to her Royal Highness, he said that there was nothing particular in it—that it was very respectful; and afterwards added, that the manners of Bergami were perfectly unobtrusive, and not at all forward. At page 511, Lord Glenhervie stated, that her Royal Highness's behaviour to Bergami was that of any mistress of rank to her servant waiting behind her—that his behaviour towards her was becoming his situation—and that, if there had been any thing disrespectful in it, which there was not, he must have observed it. The next witness examined upon that point was Lady Charlotte Lindsay, whose testimony had been given in the most fair and honourable manner, but whose testimony had not been most fairly treated by his Learned Friends on the other side. At page 514, her Ladyship, who had frequent opportunities of seeing what passed between her Royal Highness and Bergami, deposed that Bergami conducted himself in the common way that a person in his situation would naturally conduct himself towards her Royal Highness. That circumstance well deserved their Lordships' most serious attention, inasmuch as Lady Charlotte Lindsay was in her Royal Highness's suite in March and April, 1815, when it is alleged that this criminal intercourse was at its full height. Was her Ladyship so destitute of the ordinary powers of observation, as, if any thing improper had occurred in her Royal Highness's conduct, to let it pass unnoticed? Or was she so

destitute of faith as to say that she had not noticed it, when she actually had done so? Their Lordships could not for a moment doubt her credibility; and as to her talent, the house at large were able to judge of that by the ample portion of it which she had shown in her examination at the bar, whilst those who had the honour of her private acquaintance knew well that in talent and ability she soared far above the usual standard of her sex. What, then, did this lady say of her Royal Highness's general treatment of her servants? That she treated them all with great condescension, and that she talked no otherwise to Bergami than she did to Siccard, and various other persons in her family. The Earl of Llandaff, at page 529, said, that he never perceived any thing of an improper condition in her Royal Highness's conduct; and, at page 531, declared that there was nothing in it calculated or likely to reflect disgrace upon the country. Mr. Craven, at page 535, affirmed that he had never observed any impropriety of conduct or any degrading familiarity between her Royal Highness and Bergami, and that too, neither at Naples, where Bergami waited behind her chair as a courier, nor subsequently when he dined at the same table with her. At page 559, Sir Wm. Gell gave similar evidence, when a question was put to him, such as had seldom, if ever, been previously put in a court of justice. But of that question he did not intend to complain: for, give him but an honest witness; and any question they chose might be put to him. Give him but a man who cared for the sanction of an oath, and who regarded the estimation in which he was to be held among his fellow-men, and in a case like the present he would say, "Away with all the technicalities of law, away with all the forms usually observed in examination, cross-examination, and re-examination—ask him what questions you like—my client's conduct is pure and honest, is virtuous and honourable, and will bear the most rigid examination to which you can submit it." To return, however, to the question which he had before-mentioned—it was as follows:—"Did you ever observe any thing in the behaviour of the Princess of Wales towards Bergami, in her conduct, manners, conversation, or looks, to induce you to entertain an idea that there was an adulterous intercourse between them?" He called upon their Lordships to consider the effect of that question, and of the answer which must have been returned to it, if ever, during the whole course of Sir Wm. Gell's attendance on her Royal Highness at Naples—if ever, during the three or four months which he passed in her society, after he rejoined her—there had escaped from her, in the wantonness of joy and the exuberance of gaiety, one single word, or act, or look, which had clouded his mind with even a transient suspicion? Gracious God! was the



Queen of England to be tried, not by facts, but by suspicions, which by possibility might have existed in the minds of those with whom she had lived—by suspicions, too, which arose from circumstances occurring at moments when her whole heart and soul was opened to their view in all the confidence of unsuspecting innocence? So to be tried, and so to be acquitted, as Sir William Gell had acquitted her Royal Highness, was unparalleled in history. What, however, was his answer to that most extraordinary question?—"upon my honour I never saw the Princess speak to Bergami but on matters of business, though I was in the house for three months at once with them." He was then asked, "Can you give a more distinct answer to that question?" and he replied, "*I never did.*" And yet his Learned Friends, after that answer, intended, he believed, to call upon their Lordships to come to a conclusion of guilt upon facts, of whose innocent nature he, who had seen them had never entertained even a shadow of doubt. But he expected to be told that the individuals whose testimony he had just read to them, were individuals of exalted rank and character, and that her Royal Highness was, therefore, on her guard against them. To obviate any difficulty which might arise from that argument, he would introduce to their Lordships a witness of another class in society—he meant Mr. Sicard. At p. 594, being asked what was the manner of her Royal Highness to her servants generally, he replied, "Uncommon kind, almost to a fault." At p. 600, being asked whether he had made any observations on Bergami's manner, he replied that his behaviour always was proper: and at p. 608, being asked whether he had ever seen any impropriety or familiarity between her Royal Highness and Bergami, he emphatically answered—"Never, never." Their Lordships, he trusted, would ponder upon what this old servant of the Queen had said—that she was "uncommon kind to her servants, almost to a fault." He had for 20 years experienced that kindness. How melancholy, then, must it have been to him to find that that very kindness and benevolence which had endeared her to all who knew her, whether they attended upon her in a menial capacity, or the higher satisfaction of enjoying her society? was at last charged against her in order to destroy her. She had forgiven the ruffian Credi, though he had conspired, with other traitors, to blast her honour. She had also forgiven others who had evinced the same malignant and diabolical disposition towards her; and therefore he trusted that he might be forgiven for saying, that he hailed with pleasure the testimony which Sicard had given with such feeling to her general benevolence. Whilst it was the duty of himself and his Learned Friends to harass the attention of their Lord-

ships with nauseous questions regarding her Majesty's uprisings and down lyings—questions necessary indeed to her defence, but still nauseous—it was still some satisfaction to them to find that she had invariably paid the utmost regard to the feelings of others, and that she was as remarkable for the kindness which she had experienced herself. He next came to the testimony of Dr. Holland, who, when interrogated as to the conduct of Bergami, towards her Royal Highness, declared that he had never seen it otherwise than unpresuming and respectful. He would ask the Attorney-General what had become of his opening? A freedom and a presumption which, under other circumstances, would not have been shown! Was that the case here? Quite the reverse, as Dr. Holland proved at p. 618. Being afterwards asked, "Have you at any time observed on the part of her Royal Highness any conduct calculated to bring disgrace upon the character of this country?" he replied, "I believe I can answer decidedly not." In p. 620, his language was as follows—"Her Royal Highness's demeanour towards all her servants was extremely familiar. I should say at once that I never observed any difference between her manners to Bergami and her manners to any other of her servants; I may be, perhaps, allowed to add to that, to her principal servants." Now he would ask, whether it was possible that a woman, under the influence of such a passion as had been imputed to her Royal Highness, carried away as her Royal Highness was said to have been by its extreme violence, could have veiled its ardour so much, and at such different times, as not to allow any respectable evidence to be produced regarding it? At p. 623 a witness of the name of Mills was introduced to the notice of their Lordships, who had spoken to her conduct on three distinct occasions at which he had an opportunity of witnessing it. At p. 623 he deposed that he had never seen the smallest impropriety of conduct in her Royal Highness or Bergami. At p. 624 he deposed that he had not seen any difference in the general appearance of her Royal Highness's household between the three periods which he had mentioned. In reply to another question, he declared that he had never seen anything, in the conduct of her Royal Highness and Bergami towards each other, in the slightest degree derogatory to the honour of the English empire, or likely to wound the moral feelings of the country; and that, independently of her Royal Highness's conduct towards Bergami, he had never in any other respect perceived that her Royal Highness conducted herself either in public or private in any way to which a just exception could be taken. It was likewise clear, from p. 624, that even down to 1820 Bergami treated her Majesty with the ut-

most respect. That was a point deserving the most serious consideration of their Lordships; because, if the decencies of life had been once violated between her Royal Highness and Bergami, if Bergami had ever once treated her Royal Highness with disrespect, he called upon his learned friends on the other side to show by what process of the human mind, by what analysis of the human character, by what mode of reasoning—if indeed reasoning had ever been employed in the whole of this case—it now happened that respect towards an individual returned after it had once been destroyed. Mr. Attorney-General might as well state that a stream of water can flow up to the source from which it sprung, or that any other impossibility was capable of proof. The conduct of her Royal Highness towards Bergami, and of Bergami again towards her Royal Highness, was the same at the beginning, middle, and end of their acquaintance. He would now call the attention of their lordships to the evidence of Lieut. Hornum. At page 723 he said that he had never seen anything in her Royal Highness's conduct that was improper, indecent, or degrading to her high station; and, at page 727, that he never saw her Royal Highness walk arm in arm with Bergami until he began to dine regularly at her Royal Highness's table. He now came to the testimony of Col. Olivier, who, at page 911, said that Bergami's conduct was the conduct of a respectful servant; and the time of which he spoke was the year 1818 and 1819. At page 913 he described the conduct and demeanour of her Royal Highness towards the gentlemen of her suite generally to have been affable, but at the same time dignified. He next came to the last witness who had made any depositions on this head—it was Captain Vassali; he was the last of the 12 witnesses whom he had promised to bring forward; and he deposed that, from the first moment in which he entered the Queen's service to the last, he never saw her commit any action that was disgraceful or improper. He trusted that he might now say that, by the mass of evidence which he had just brought forward, he had completely demonstrated the proposition with which he had set out, viz., that the Queen's conduct was consistent with the relative situation of herself and Bergami, and was destitute of all, even the slightest criminality. The ground which his learned friend, the Attorney-General had, so ingeniously laid for the support of his other charges, was therefore withdrawn from under his feet, and he was, in consequence, left to combat with his (Mr. Lushington's) assertions, without having the power of proving any crime against his illustrious client. The next charge against her Majesty was, that she had parted with all her English atten-

dants. This charge was of the same nature with many others which had been introduced into this bill: individually there was nothing criminal in them; but they had been formed with great skill and ingenuity into a consistent whole, in the hope that, though nobody might be convinced of her Majesty's guilt by any one of them singly, a conviction of it might be established by all of them taken collectively. Now his mode of disposing of this case would be by showing, that both singly and collectively, the facts charged were unsatisfactory for the establishment of guilt. On the charge which he was now going to discuss his learned friend, the Attorney-General, had said, "Here was a fact which could leave no doubt of her Majesty's criminality. It was of such a nature as in a few words to speak volumes." His Learned Friend had put the case thus—"The Queen having formed his intimacy, and fearful of the infamy and disgrace which it was calculated to bring upon her, began to estrange herself more and more from the natives of England, and by one ingenious contrivance or another displaced all the English who had originally formed her suite, in order that she might indulge her wantonness in secret, and without fear or chance of detection." Now he called upon their Lordships to reflect how far this accusation had been proved by the evidence, as it stood as present. One of the first persons who went abroad with her Majesty was Colonel St. Leger, who, at page 489, proved that he had been obliged to leave her in 1814, on account of his ill health and family; and that, in the course of the year 1819, he had received a communication from her in consequence of which he prepared to go and meet her Majesty at Dover. Next came Lady Charlotte Lindsay, who at page 518, had informed their Lordships that she had left the Queen at Leghorn, in consequence of an arrangement which had been made previously to her joining her Majesty. That fact alone would be sufficient to destroy the foundation upon which the whole story rested, that the Queen had voluntarily parted with her suite. What, then, would their Lordships think of it when they found Lady Charlotte Lindsay, at p. 517, saying, in answer to the question "Had any application been made to your Ladyship to join her Royal Highness in Germany before you took the resolution of quitting? Yes, there had." This application, it was afterwards proved in evidence was made in 1817, immediately after Royal Highness had returned from her long voyage, when according to the Attorney-General, she was spending night and day in the indulgence of a passion which had never existed except in the prurient imaginations of his Learned Friend's witnesses. At that time, however, if the Attorney-General was to be believed, she had sent for

Lady C. Lindsay to witness the depth of disgrace and infamy to which she had sunk.—But where was the man who could believe such a statement? No, the very sending back for Lady C. Lindsay at that hour did, as the Attorney-General had expressed it, indeed speak volumes; it bespoke a conviction of innocence on the part of her Majesty—a consciousness that she had nothing to fear if the whole of her conduct were made known in England. If it were necessary to follow this charge further in detail, he could adduce other evidence of the same nature; but, before he proceeded to do that, he must point out to their Lordships an attempt which the Attorney-General had made, not to invalidate the testimony of Lady C. Lindsay, but to find out whether she might not, at some time or other, have entertained opinions derogatory from the character of the Queen of England. It was indeed well worthy of those who conducted the case for the prosecution, it was consistent with their general spirit, it was in concordance with every thing they had done from the beginning to the end of these transactions, to violate the confidence which ought always to exist between the husband and the wife, and by such means to bring forth facts, which, by the imprudence and infamy of one of them, might lead to the destruction of the character of both. He felt nothing but pity and commiseration for his Learned Friends, who had been compelled to avail themselves of this proffered testimony; but he felt indignation, abhorrence, and detestation for him, who had furnished such means of knowledge, for him who had basely endeavoured by his own infamy to injure the honour of his wife, and to blast the character of his Queen. Such an instance of gratuitous infamy, he would venture to affirm, was not surpassed by any thing to be found in the record of any court of justice—no, not even in the annals of the Old Bailey. And, after all, what did it come to? Though even the contents of these confidential letters had been inquired into, it appeared that Lady Charlotte Lindsay never in the whole course of her life saw any impropriety in her Majesty's conduct, but that the reports which were in circulation had made an impression on her mind. That these reports made such an impression, and that that impression operated as an inducement on the mind of Lady Charlotte Lindsay to quit her Majesty's service, were facts which he would not deny, for they made a part of the case on which the defence was rested. He came now to the Hon. Keppel Craven, who had sworn that, instead of being dismissed by her Majesty on her arrival on the continent, he had staid with her 4 months longer than he intended when he quitted England. Sir William Gell, too, swore (page 559) that he left her Majesty because

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he had the gout, and that he returned to her service after the long voyage. This was the evidence of Sir Wm. Gell, who actually did return to the service of her Majesty, and remained with her in the character of joint chamberlain with Bergami. Here, then, was another instance of the alleged dismissal of her Majesty's English attendants. The evidence of Dr. Holland on this subject, to which it was unnecessary for him to advert more minutely, would be found at page 610 of printed minutes. So much for the Queen's voluntarily getting rid of her English suite. But there was another thing connected with this charge, which formed a strange and striking anomaly in the conduct of her Majesty: for it appeared that when she had, according to the statement of the King's Attorney-Gen., secured this seclusion from English society—when she had thus stopped up every avenue through which her conduct might be observed she at that moment called Lieutenant Hownam, an Englishman, to her side. She was so fascinated by the charms of Bergami's company, that all the English attendants were sent away; and yet, strange to tell, Lieutenant Hownam was found by her side for three years! He had thus disposed of these two heads of accusation; and he next came to one, the consideration of which would not occupy their Lordships' attention two minutes. It had been said that the Queen of England had not only got rid of all her English suit, but that, forgetful of the ordinary decorum that became her station, she had avoided all society of rank and consequence. Now, from the beginning to the end of the case, there was not one syllable of evidence to support that allegation. He would not detain their Lordships by reciting the names of all the witnesses who had negatived the fact, nor would he overhaul the testimony of those witnesses that related to this charge, for their Lordships would say that that testimony was super abundant. To the evidence of one or two of those persons, however, he should advert. Dr. Holland had stated (page 609) that her Majesty was visited by all the nobility while in Italy, and that at Genoa she was visited by all the English nobility who resided there. Thus, while she was opening her hospitable door for the reception of these English, that was the very time fixed on by De Mont for asserting the reverse. He however was willing to take the act against the assertion, even if the assertion had come from the mouth of a respectable witness. There was not in fact a single court, in Europe or in Africa, to which the Princess of Wales did not go, and every where she was received with the greatest respect and attention. One of the witnesses, in describing the esteem and attention which her Majesty's deportment every where commanded, had used, as their Lordships would perceive, almost the very

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words of one of the Right Honourable colleagues of the Noble Author of this bill, who, to the honour of human nature, disclaimed all participation in the present prosecution. There was indeed, some exception, as to the manner in which her Majesty had been received at foreign courts, and that exception was at the court of Vienna. And why? How difficult it was to solve that question! At that court was my Lord Stewart ambassador. At that court the brother of my Lord Castlereagh resided. And what was he besides? why, he was the patron and employer of Majocchi, the principal dealer in perjury. Here then was the reason for the exception—a reason which would weigh on their Lordships' minds, so long as truth and justice were the objects they had in view. There was one other circumstance to which he would briefly advert. "How can you," said the Attorney-General, "account for the rapid promotion of this obscure individual? Here we see him at first in the humble capacity of a courier, and scarce seven or eight months elapse when we find him raised to the office of Chamberlain to the Queen." Let their Lordships look, if this circumstance was not capable of being explained. What said the evidence as to the origin of Bergami? Mr. Craven stated, (page 563), that the chamberlain of the Emperor recommended Bergami in the strongest terms, as worthy of confidence, and superior to his situation. Sir William Gell said, at page 549, that he was of a respectable family, which had fallen into distress during the French Revolution: and, at page 624, the same witness stated that Bergami had lived with General Pino as a confidential friend: and again, at page 632, that he was not looked on as a servant, but as a friend. At page 549 it was stated by Sir Wm. Gell, that the person who recommended Bergami to him said he was above the office he was going to enter, and hoped that if he behaved well, of which he had no doubt, he would be gradually advanced. Now, it was not till after her Majesty had had five months' experience of his good conduct that she advanced him to the office of chamberlain, at a time when she was deprived of the services of her confidential servant, Sicard. And what were the circumstances that induced her, or, he might rather say, compelled her, to make such an appointment? She had left this country under circumstances of disfavour with the court; to attend on her, to be in her favour, was to be in disgrace; to have her countenance was to forfeit all hopes of promotion, which to individuals of rank in this country, who looked forward to promotion, would be sufficient to prevent them from accompanying her Majesty. How difficult, then, must it have been to get a person qualified for this situation, especially when it was recollected, that from the day on which she left England, at least from the

day on which she arrived at Milan, she had been beset with spies and informers? And at Genoa it appeared that if her personal safety was not actually endangered, she was suffering under apprehensions, which she had stated to Lieutenant Hownam, and which made her require the presence of some person to protect her. Under such circumstances, when their Lordships saw how he had conducted himself since he had been in her service, with what respect he treated her Majesty from the first hour he entered her house down to the year 1820, he thought their Lordships must be convinced that no suspicion attached to the promotion of this individual. They had been told that Bergami was omnipotent in the counsel which he exercised over her Majesty; but he (Dr. Lushington) denied that to be the evidence of any one witness whatsoever. If the Queen had been under the influence of a guilty passion, Bergami would have commanded her as a slave from the first hour that she had condescended to court his favour. Favourites, their Lordships knew, had seldom much mercy or consideration; but that they should forget their own interests would be strange indeed. How would it have been with Bergami? The first hour of a guilty intercourse would have been the signal for the commencement of his reign. Her Majesty would have known no pleasure but in obeying his commands, no duty but in consulting his pleasure. Would she have thought of abandoning the delights and joys of an Italian climate, for a journey so arduous and fatiguing that few would have had courage to undertake it, when she might have remained—nay, when she would have been compelled to remain there in the undisturbed enjoyment of this individual's society? If we were to take human nature for our guide—if the actions of individuals were to be judged by that standard, conduct so inconsistent as this had never been seen. Their Lordships' must have perceived with what boldness his learned friends, relying on the assertions with which they were armed, had opened the first grand scene of this drama. The King's Attorney-General, all confidence, all reliance on sources which had since failed, exclaimed, "Now I will lead you to the bridal bed! I will now show you the consummation by proofs and by evidence! Not a doubt shall remain of the guilt which I have charged!" Now they came to this scene, and venture to say he did, that this had been proved, as had all the other parts of the case, to be false. The evidence on this subject was even as satisfactory as that which related to the Sinigaglia journey, and the falsehoods of Sacchi. He was compelled to advert to this circumstance, merely to bring in one or two observations, not that it was his intention to tread the same ground that had been so ably gone over by his learned



friend on the two former days. On the 9th of November, the second night after the Queen's arrival at Naples, adultery was charged to have taken place. Now, let their Lordships' mark the evidence by which this charge was borne out. Her Majesty arrives at Naples on the 8th; she goes to a concert on the evening of the 9th, and to the Opera on the evening of the 10th. De Mont, on whose testimony the story of the adultery rested, had fixed the time of the adultery on the second night after the Queen's arrival at Naples, and yet she had said that that night her Majesty told her she was going to the Opera. But, whether the scene was laid on the night of the 9th or of the 10th, there was now ample proof to show that the whole was false. They had it from De Mont, or rather on the assertion of the King's Attorney-General, that Wm. Austin was then, for the first time, removed to a separate room from that in which her Majesty slept. Now, instead of its being proved that Austin was removed to another room for the first time, mark what was stated by their own witness, at page 248. "William Austin generally slept in her Royal Highness's room. Such was the manner in which this statement was borne out, even on the showing of the witness who was to prove it; but how did the matter stand now? It was proved by two witnesses, Sir Wm. Gell and Wm. Carrington, that prior to her Majesty's arrival at Naples, Austin sometimes slept in another room (p. 567); and Carrington stated on those occasions he had made the bed for him. Mr. Craven had further proved (page 537) that he had advised the Queen not to allow Wm. Austin to sleep in her room, because he was too old. Thus stood the facts as to Austin's being removed from her Majesty's room, for the first time, on her arrival at Naples. But then came Sicard, who said (page 603) that Austin actually slept in her Majesty's room during the first week that she was at Naples. If this statement of Sicard's were true, the fact of adultery died, for he supposed his Learned Friends would not attempt to prove that the adultery had been committed in Wm. Austin's presence. But even if Sicard's failed, if that witness were mistaken as to Austin's sleeping in her Majesty's room for some time after her arrival at Naples, there still remained the evidence of the Hon. Keppel Craven, who had sworn that the arrangement for Austin's sleeping in a separate room had been made some time before their arrival at Naples. —Although, by the representation of his Learned Friends, her Majesty was that night about to celebrate her hymeneal rites, she puts into the next room to her this boy of 13 years of age, who had always been in the habit of entering the room at any hour! So much for Wm. Austin. Then the next circumstance of suspicion, on this occasion, was

the Queen's returning home early that evening. But if the night in question was that on which her Majesty went to the opera, she could not have come till one o'clock in the morning, at which hour she was attended by Mr. Craven. If it was the night of the opera, she did not return till eleven o'clock at night, when Sir Wm. Gell was in attendance, and a direct negative was therefore given to this part also of the adultery scene. It was said that Bergami's room was placed at the end of the corridor to facilitate the alleged communication; but this had been so largely observed on already by his Learned Friend, that he should dismiss it with the single remark, that it had been proved Bergami was placed there by the direction of Sicard to protect that part of the house. Here was evidence which, if carefully perused, would establish this as well as the other parts of the defence, and show that the accusation, so plausibly got up, was all a tale of falsehood. Then came another contradiction to his Learned Friends on the other side; for their Lordships must have observed that his Learned Friend, the King's Solicitor-General, if a witness did not go willingly along with him, drove him with the whip by force into the proper track. Thus the present witness, De Mont, after being whipped and spurred by the Solicitor-General, said, that the large bed had the appearance of more than one person having slept in it. Nor was that all; for three days after, as their Lordships knew, she gave an addition, as if to crown the whole, of stains upon the sheets. Now, if Bergami came to the Queen that night, the small bed was not occupied; her Majesty must have occupied the large bed. Why, the large bed had no sheets on it, according to the evidence of this very witness! A bed without sheets slept in, in the winter season, and by a lady of forty-five years of age! Their Lordships must have observed, that on the subsequent nights there was always the same tale as to the bed being occupied by two persons. What! the large bed, on which there were no sheets, occupied by two persons, not one night only, but for four whole months. But he was aware that he was needlessly wasting time by dwelling on such an absurdity, especially as it was proved that Bergami, during that time, was for several weeks confined to his own room by a hurt from the kick of a horse. Still, however, notwithstanding the confinement of Bergami, the large bed had the appearance of two persons having slept in it. Here, then, was double adultery proved with a vengeance. O, how truth shone forth, and cleared the innocent from the attempts of falsehood and malevolence! He would appeal to their Lordships whether this tale was consistent with common sense. (The Learned Gentleman here adverted to several other inconsistencies in the evidence of De Mont!)



Such was the evidence of D: Mont. O wondrous memory! which appeared in all its native strength when circumstances adverse to the Queen were to be related; but which was no longer to be found when any matter leading to her Majesty's innocence was to be elicited. Well might his Learned Friends say, when they adverted to the improbability of this woman's testimony—well might they say, "Here we place our strong reliance—here we rest our defence to this part of the case. Why have you not called Annette Preising, who had made the beds for the preceding two months, to confirm De Mont's testimony?" From the evidence of De Mont herself (page 360), it appeared that she was not the bed-maker, but that Annette Preising was employed to perform that duty. That individual, as was stated in Raselli's evidence (page 413), was now in England. Why was she not called to give her testimony? If she could establish the fact which De Mont had stated, her evidence would have been invaluable, since it had been her duty and her business, for a long period, to attend to the beds. His Learned Friends on the other side, had, however, in the exercise of a wise and prudent discretion, abstained from bringing her forward—although they were willing to take to themselves the credit of having this witness locked up in the buildings in Cotton-garden, and as ready to give her evidence as the other parties had been. But, instead of producing her at their lordships' bar, his learned friends were pleased to rest their case on the *prima facie* evidence of De Mont—a witness who looking at all the circumstances on which she had been contradicted, was unworthy of belief. He would here leave the evidence of the solemnization of those unhallowed rites; assured that their lordships would not offer up so great a sacrifice, the sacrifice of the fame, and honour, and character of the Queen, on testimony such as this—testimony which no rational man could credit. One word only—and one word was almost more than it would bear—on that part of the evidence of Majochi which respected the passing of her Royal Highness through his room. Majochi was not behind hand with his partner in the gainful trade of perjury. He also had his little stock of adulterous facts, to swell the general heap. But how did his evidence stand? Her Majesty's counsel had called a number of people who threw manifest discredit on his testimony. Was it to be supposed that, for the sake of concealment, her Royal Highness would go through the corridor and through Majochi's room to that of Bergami, when it was proved that there was another door by which she might have entered? Suppose, however, he were willing to grant the truth of this statement—suppose he were to say that the Queen did seek

her way to this room in the manner described—he would then ask, if in endeavouring to gratify her unlady desires, she once entered the room where Majochi was lying, and having there discovered him asleep, she proceeded to the room of Bergami, from whence she then had the good fortune to escape, as she supposed, unnoticed—was it likely, he would ask, that she would venture through that apartment again? Was it probable, was it possible, when there was scarcely a chance of her meeting any person in the ordinary passage, at the dead of the night, that she would avoid the passage for the purpose of subjecting herself to the almost absolute certainty of encountering Majochi? The first time she might have been ignorant that Majochi slept there—she might have been taken by surprise—she might have been confused, and in consequence instead of immediately retiring, she might have involuntarily proceeded; but the second time she must have known to a certainty, as there was a light in the room, that a man slept on the couch, and that if she passed through she might chance to be detected. And yet they were told that she continued to go that way. Would any person in their senses run such a risk? Go that way! She might do so through necessity; but to proceed through Majochi's room as a matter of preference, when there was another communication with Bergami's apartment, was altogether improbable. If there had been no other passage, it might be said that the Queen was so entirely carried away by her passion for this individual, that in spite of every obstacle, without the smallest regard for even the appearance of character, she was determined to gratify it, and with that feeling would incur every danger and every hazard. But, when there was another passage by which she might have privately effected her object, could it be supposed that she would act in a manner which no rational mind would ever think of adopting? He would now say a few words with respect to what was alleged to have taken place at the masked ball which her Royal Highness had been pleased to give to Murat at Naples. Their Lordships could not have forgot the charge, as it was opened by his Learned Friend, the Attorney-General. He expatiated on the indecent dress in which her Royal Highness appeared on that occasion—he described it as a dress at which every delicate mind must be shocked—and he dwelt with great force on the circumstance that her Royal Highness put on that dress in the presence of Bergami, rather than in that of her female servant. He begged to draw their attention particularly to the evidence of De Mont, who had deposed on these points, and whose evidence, if attentively considered, rendered comment almost unnecessary. De

Mont swore, page 254, that when her Royal Highness appeared as the Genius of History, "she had her arms bare, and her breasts bare, and her drapery in the same way—as people represent the Muses;" but from this part alone of her deposition, he would prove to their Lordships, that the whole of her evidence ought to be dismissed from their minds. In the state he had described, her Royal Highness was represented to have appeared at a public hall, and by so appearing, she was said to have disgusted all who saw her, and to have disgraced the character of the country to which she had belonged. But if there had been the least shadow of truth in this infamous statement, if it were capable of being sustained by any testimony whatsoever, in addition to that of De Mont, could a more favourable opportunity have been afforded to his Learned Friends (if those who had instructed them would, for once, allow them to proceed beyond the limited testimony of discarded servants) for producing some of those persons who were present at the ball, who, if there were any foundation for the slander, might have shown, as clearly as the sun in meridian splendour, the extent of that disgrace and degradation on which his Learned Friends had laid so much stress.—Would any man say that such a charge—a charge which might have been so easily proved—should be suffered to have any weight, when supported only by the evidence of this discarded servant? But how did it otherwise stand?—It was not only shaken by the circumstance of its not having been confirmed, but it was completely contradicted by other evidence. The Hon. Keppel Craven had been examined on this point before their Lordships. It was one on which evidence could easily have been procured, if her Royal Highness had been dressed as his Learned Friends had represented, to have borne them out in their statement. Was the dress of the Princess of Wales not likely to have caused much observation? Were not all eyes turned on her, in order to detect even the smallest deviation from decorum? Would all those who were at the ball have been blind to her conduct, if she had thus exhibited herself? What was the evidence of Mr. Keppel Craven? He stated (p. 536) that, as far as he remembered, the dress of her Royal Highness was a white drapery, which came up very high; and he added, that if her dress had been immodest or indecent, he must have observed it; but that he saw nothing of the kind. Again, Sir W. Gell stated (p. 560) that the Queen had another dress under her robe. His words were—"Not only it must have been so, but I have a clear recollection of the dress her Majesty had on under it—a dress perfectly plain, that came up to the neck, was very short, and had no train." He would not trouble their Lordships with

further observations on this point, but only to say that even the recollection of this charge, which was so completely refuted, ought to be cast away from the minds of their Lordships. Connected with this accusation was the statement that Bergami had been employed on this occasion in assisting the Queen to dress and undress, and that her Majesty had changed all her clothes while he was in the room. How did they find that statement supported? So far from its having been proved, it was given distinctly in evidence by Sir W. Gell that her Royal Highness wore an under dress, which he believed to have been made on purpose for the occasion; and, with respect to the presence of Bergami when her Royal Highness was dressing, Sir W. Gell stated, "that, to say the truth, he believed her Royal Highness had a very great number of attendants when she went up stairs at the masquerade, at Naples, to change her dress: the door was opened and shut perpetually, and every body was in and out of her room." And yet De Mont had the courage, he would rather say the audacity, to state to their Lordships (page 253), that on this occasion her Majesty remained for three quarters of an hour locked up in a private room with her servant. He thought no particle of doubt could be entertained, he conceived not the remotest doubt could operate against the conviction, that De Mont's evidence was here entirely overturned. Not even a shadow of proof that she had spoken the truth had been suffered to remain. Another statement of the same kind, and equally false, had been sworn to by De Mont—he meant the charge that her Royal Highness had gone, dressed in a most indecent and disgusting manner, to a masquerade at the theatre of San Carlos. Mr. Attorney-General, in pursuance of his instructions, had been pleased to state that, the moment this indecent dress was seen, the indignation of the assembly was strongly manifested, and the Queen was compelled to make a speedy retreat. This transaction was, undoubtedly, capable of proof, if it had occurred; but it rested solely on the evidence of De Mont: and, after all, it turned out, on her cross-examination, "that her Royal Highness had only an ugly red dress on; and that she, and those who attended her, were surrounded by troublesome masks." Sir W. Gell deposed that he was present; and it appeared that he had not heard a word of that indignation which the Attorney-General had alluded to in his opening. Why then, he contended, he was justified in taking this clear view of the question—he was justified in saying, that not even the shadow of a charge remained against the Queen with respect to her conduct during her residence at Naples, and that she left that city pure and perfect in character. He would pursue the other charges in the same manner, with the

full confidence that he should rebut and overturn them all. He would consider each and every one of them, until he had entirely disproved them, and placed the Queen before their Lordships, freed from all those scandalous imputations which had been so unjustly cast upon her character and conduct. Nor would he stop there. He would pursue the inquiry farther, because he thought, in his conscience, he was entitled to say to their Lordships, that here, in the evidence on which he had just commented, the groundwork of the plot was to be discovered; here was the foundation of that edifice of imputed guilt and profligate criminality which had since been entirely destroyed. When he looked at the evidence of De Mont—when he examined it in all its parts, and saw the consummate art and artifice with which it was concocted—when he marked the manner in which it had been got up, in the original type at least, and contrasted it, not with the evidence of others, but the direct with the cross-examination, he had a right to say, “Here is the foundation of the calumny—here the talents of De Mont have been successfully exerted—here they have been carefully employed to pave the way for the production of other charges, and other criminatory circumstances, which, without the colouring that was to be derived from this part of the case, must have fallen to the ground at once.” He must say that his Learned Friends on the other side had acted rightly and wisely. Some of their witnesses had not received much preparation—but why had they bestowed so much pains on the preparation of De Mont?—They did so on the old principle, “Let me but poison the source of the stream, and death will inevitably follow down the current.” “Let us,” said they, “show that there was gross impropriety of conduct at Naples—that her Majesty was treated with indignity at an assembly there—and we can convert all other circumstances that may follow, however neutral, however innocent, however praiseworthy, into matters of aggravation: we will stain them with the same complexion, and bestow on them the same character!” But he called on their Lordships, for the sake of truth and justice, to cast away from their minds, to discharge from their hearts, every trace of that evidence, which, he confidently asserted, he had disproved in the face of this august assembly. The future circumstances which it was his duty to discuss he would discuss fairly, with a due attention to every thing that belonged to them; but he entreated their Lordships, in considering that part of the case, not to couple it with matter which, with reference to intention, to fact, and to justice, had no connexion with it.

The EARL of LIVERPOOL, here suggested the propriety of permitting the Learn-

ed Counsel, who appeared much exhausted, to retire for a short time.

The suggestion received the sanction of the House, and the Learned Gentleman retired from the bar.

Dr. Lushington resumed at a quarter past one. There were several branches of the case which, in the strict discharge of his duty, he felt himself justified in passing over without one observation. This he felt himself justified in doing, for two reasons—first, because nothing could be added to the arguments of his Learned Friends on those parts, and also because the evidence which was produced respecting them on the other side was entirely contradicted and destroyed. Those parts of the case were the circumstances alleged to have occurred at Scharniti, in the journey to Sinigaglia, and to Trieste. All those circumstances were so satisfactorily disproved, that it would be an absolute waste of time to say one word more respecting them. The part of the case of which the scene was laid in Naples, in March, 1815, exhibited, in the first instance, extreme deficiency of proof, and was afterwards entirely annihilated by satisfactory and complete proof of its falsehood. And this, a considerable period, he believed, of not less than 6 or 7 months was passed over without any charge or evidence to support it. The manner in which her Royal Highness breakfasted at Genoa, and other little petty circumstances, were all that they had stated, and on the same evidence which had so often as it could be met, been found false and perjured. He now came to consideration of the long voyages. Here he thought it right in the first instance to point out to their Lordships one or two contradictions, which, if they produced on their Lordships the effect which they ought to produce, would entirely discredit the testimony of the witnesses respecting any other fact. He must here mention to their Lordships a fact, which if he offered it in a court of strict justice, could be considered little short of a contempt of the court. In a court of justice, which was accustomed to weigh and consider evidence, to look into the motives and characters of witnesses, and to distinguish accurately the credibility of testimony, he would be thought to trifle if he presumed to make the observation which he was now to offer to their Lordships. If once their Lordships found a witness had swerved from truth, wilfully swerved—if once they found a witness had wilfully, and, as the law expressed, of malice aforethought, deposed against his knowledge of the truth—their Lordships were bound in justice they were bound, according to all the principles which governed the human mind, to reject the whole testimony of that witness from beginning to end. Why,

if Majochi once disregarded the reverence for the name of God, to which he solemnly appealed—if he once trampled on the sacred sanctions of veracity—if he once did this, why, upon what ground, by what discretion could they believe him in any other instance? Why, in the name of common sense, did conviction for perjury disqualify a man from being a witness? Why, but because having once sworn falsely, he never could be credited again? And where was the distinction between perjury on the record of a court, and perjury proved, before their Lordships, past all possibility of a doubt? Majochi, if once convicted of perjury in a court of justice, would not be competent as a witness in any case whatever.—If, then, instead of the record of a court, he produced to their Lordships proof of his having been guilty of perjury, could any man doubt whether in common sense, in common equity, that as in the one instance the testimony was rejected altogether, so, in the other it ought to be treated as if it had never been given, and that their Lordships were bound to dismiss from their consideration every trace, every impression which his evidence might have made? The same remark was likewise applicable to the testimony of De Mont, of Sacchi, and of Rastelli. It had never yet been given to man to detect perjury in all its ramifications; therefore the only security was to discredit and reject the whole of that testimony in which perjury had been once detected. One or two instances of contradiction and perjury he would now point out, in order to make this observation obviously applicable to the evidence of those he had mentioned. The Queen embarked on board the polacre, and in the course of her voyage of curiosity and taste, she visited the grotto of the seven sleeping men. Their Lordships would find the evidence of Majochi to this point in pages 22 and 23. The eloquence of his Learned Friend the Attorney-General, would have represented to their Lordships that the Queen had here dined alone with Bergami, surrounded with all the luxury of Eastern magnificence. Majochi gave this evidence:—

“Where did the Princess sleep the first night upon her arriving at that place? Under the *caffa*, or within the *caffa* under things all made of boughs of trees.

“Was Bergami also there? He also was present.

“Was there any other person present? No one else.

“Did they dine there by themselves? They were alone.

“After dinner was over did they remain there? Yes.

“Was any other person with them? There was no other person present.

“Did the bed remain there? It did.

Their Lordships would now turn to page 705 of the evidence, where Lieutenant Hownam gave this account of that place of accommodation.—

“What was the name of the place where her Royal Highness and her suite slept on the night of your landing? We slept on the plains of Ephesus.

“In what manner? what erections were made? or what convenience was there to enable the party to sleep there? Under the shed of a *Caffa Turk*; a miserable house.

“Did her Royal Highness sleep under this tent? She did.

“How was the shed constructed? Whether it was by planks or by boughs I am not certain.

“Was it enclosed on each side, or open in any way? Open.

“Where did the suit of her Royal Highness sleep? All around her.

“Do you remember where her Royal Highness dined either that or the following day? It was in the church-yard, next the coffee-house.

“What did she dine under? what was there above her? The portico of an old mosque.

“Did she dine alone upon that occasion? I am convinced we all dined together.

“Do you mean that you recollect you then dined together? I recollect most perfectly.

“How did you contrive to sit upon that occasion? We sat on the ground; her Royal Highness sat on her travelling bed.”

To the same effect their Lordships would find Lieut. Hownam's testimony in page 742. Their Lordships, upon carefully considering the situation of her Royal Highness on the plains of Ephesus, would perceive, that instead of being a scene for the indulgence of a criminal intercourse—instead of being a scene of luxury—it was a situation of great privations, many difficulties, and of distressing hardships. This, however, was one of the spots selected for artful and malignant calumny. Her Royal Highness was forced to wander in foreign realms to avoid insult, persecution, and outrage at home, to escape from the snares and injuries of those who were bound to protect her, and to obtain in subjects of ancient renown and everlasting interest, the relief and gratification which only a virtuous mind could derive from them. In this pilgrimage this illustrious but forlorn lady is obliged to repose during the night in an open shed, exposed to every breath of air and to the dews of heaven. She wants all the luxuries that belong to her rank—aye, and worse—she wants the comforts and even necessities of life. If she had not used her travelling-bed, she had not whereon to sit. Yet here is she beset by the fangs of a conspiracy; and the



effects of want, desolation, and injury, are represented as proofs of profligate indulgence and criminal conduct, and by her own servants, supported by her bounty and favoured by her kindness. Those who had experienced her kindest care perjured and forswore themselves for her destruction. Therefore it was that Majocchi said—and this was a little instance of his talent at invention—in page 22 he said, that the rest of the suite slept in another part of a building (at Tunis) separate from the part where the rooms of her Royal Highness and Bergami were situated. At page 704 this was completely refuted by Lieutenant Hownam. In page 287, too, De Mont gave the same evidence as Lieutenant Hownam. She stated that the Countess Oldi, her sister, and herself, slept near her Royal Highness's room. When their Lordships found such a flagrant invention as this, such an artful and deliberate perjury in the testimony of Majocchi, it not only refuted the witness in that instance, but altogether discredited his evidence. It were a waste of time to give more instance, from this witness's testimony; almost every fact sworn to by him was an instance of the same kind. He should just mention another instance that now occurred to him in the Barons. Majocchi represented that there was a studied secrecy, conveying the idea of criminality in the arrangement of the rooms and the staircase. The staircase was stated by Majocchi, p. 13, to be unfrequented. Lieutenant Hownam, p. 703, swore that "it was not a secret staircase; it led up to his apartment, and was frequented by the servants. A similar contradiction he would just advert to respecting the mode of sleeping in the tent on land. Lieutenant Hownam swore he never saw the sofa with the bedclothes on; that the Queen was not undressed; that she was so fatigued as to have fallen from her horse. Majocchi's evidence on this subject was in page 91, and he requested the particular attention of their Lordships to it:

"You have said that, in the journey from D'Acre to Jerusalem, you and Carlo, or Carlini, sometimes slept between the outer and the inner tent. Can you recollect how often you so slept? I remember twice.

"Do you remember at either of those times to have heard any conversation or any thing that induced you to believe that there were two persons in the inner tent? Yes.

"Could you distinguish whose the voices were? I could not distinguish the voices; but I heard whispers.

"Could you understand of what persons the voices were, whether male or female? I heard two voices speak by whispering; but I could not make out whether they were men's voices or women's voices."

Whence it was that a witness who had advanced so far in the labyrinths of perjury

could feel such qualms of conscience as to do away thus with the effect of his former testimony it was not for him to say. But so it was here. If any man who took all the circumstances of her Majesty's situation there into consideration, who recollected the extreme fatigue of the Queen, her falling from her horse, the impossibility of travelling by day—if any man of sense believed that, during the too-short period allowed for repose, the Queen harboured in her mind the thought or actually perpetrated the fact insinuated against her, he (Dr. Lushington) pitied his understanding, and would consider it absolute waste of time if he attempted to bring him to a rational conclusion. He now came to the last stay of sinking perjury, to the last cable of a shipwrecked cause, a cause set up under the pretence of guarding public morals, and giving effect to public example. He came fearless to the task, feeling as he did all the confidence which the firmest conviction could give him. He came now to consider the evidence respecting the polacre. Let not their Lordships forget, he entreated, that the Queen of England entered the polacre unstained, unspotted, uncontaminated even from the breath of suspicion. When she entered the polacre, Bergami was sleeping, not in the dining room. The Queen had a cabin divided, part for her own bed, part for that of the Countess of Oldi. When they sailed from Messina, Bergami slept in the after cabin. But this arrangement was changed, said they, by her Royal Highness for the purpose of facilitating a criminal intercourse.—Now this he would refute by shewing a good and sufficient reason for the charge. Capt. Flynn, p. 647, stated that this change became necessary, in consequence of a surgeon having been taken on board at Tunis; and that, for that reason, Bergami's berth was changed into the dining room. Lieut. Hownam gave evidence to the same effect. Both distinctly stated the change of arrangements to have been made in consequence of a doctor having been taken on board at Tunis, and from the necessity of making some room for the incoming tenant. Then Bergami was removed to the dining-room, where he slept on a mattress; and he was not the only one whose place was changed. During the whole of what was called the outer voyage to St. Jean d'Acre he continued to sleep there. On her return, the Queen changed her sleeping place, and had a couch erected on the deck. He would now state a reason for this change, the fact itself, and the justification. The reason was traced beyond all possibility of doubt: the reason was, that some horses had been taken on board, and that the stench and heat made it uncomfortable to sleep below deck. In the same tent Bergami was said to have slept. Whether this was once, twice, or almost always, he cared not. Extorted as the evi-



dance was from Lieutenant Hownam, he should be astonished if he should hear his learned friends contend, in presence of their lordships, that evidence, partly hearsay, should be made the ground of conviction. If a conviction should be founded on such evidence, it would be the first instance since English jurisprudence acquired a rational character and form; it would, at least, be the first instance since the time of James II. He might, upon this ground, extort a verdict of acquittal from the mouths of their lordships, leaving a conviction on their minds that the Queen was guilty; he would be justified in doing so; but, in the name of his royal mistress, he disclaimed, he disdained it: He could not do such injury to her sense of justice, and her regard to moral feeling; he should think it a happiness and a blessing that she were convicted if she were guilty, and not that she should go forth from their bar acquitted only in name, but stripped of all the grace and all the dignity of innocence, condemned by all whose good opinions were worth preserving, and shunned by all whose characters made society moral, or life valuable. Granting that Bergami slept under the tent, granting every thing that was established by belief or hearsay, he was prepared to justify it. What was it under which the Queen slept? It was a misnomer to call it a tent. It was an awning, which covered nearly the whole breadth of the vessel. It was not formed and fashioned so nicely as to exclude every annoyance and intrusion, and to admit just enough of air to sustain the current of life. He had the evidence of Lieutenant Hownam to prove that the tent could be easily opened. He referred to page 712, where Lieutenant Hownam stated "I have on many occasions so opened it." Their Lordships would attend to how this was done. The two parts of the canvass were brought together; not sewed, or any thing of that sort; the next circumstance he would point out to the observation of their Lordships was, that two persons were always at the helm. This appeared from the evidence of Paturzo, p. 106. From his evidence it appeared that not less than ten men were always on deck during the night. The hatchway was proved to have been always open; there was no companion; the hatches were not under the awning. This was proof that it was not only open, but that there was no possibility of excluding any person who might use the hatchway. Bergami was always dressed, and the Queen was always dressed. Such was the evidence of Gargiulo, p. 120. De Mont, in p. 272, said, "I do not recollect seeing it closed at night." With the exception of Gargiulo, who said he had once seen it closed, how or by what he (Dr. Lushington) knew; not all, Hownam, Flynn, and even De Mont, swore that they

never saw the hatchway closed at all. No light was under the tent at night, because, as two witnesses had told their Lordships, there was danger apprehended from pirates. Till that danger threatened, the witnesses proved that lights had been used all night in the tent. This was stated by Capt. Flynn, p. 640, and corroborated by Lieut. Hownam, p. 708. Next, as to hearing any thing that passed under this tent, Majochi said he heard—what?—the creaking of a bed. According to this, any man who heard the creaking of a bed might go into a court of justice, and say that two had been committing adultery there. Paturzo swore that Majochi could hear below; Majochi swore that he did hear. But two steersmen, who were in close contact with the tent—ten sailors, who were upon deck and around the tent—and Captain Flynn, who was within three feet of the tent—heard nothing of the kind. This, then, was the scene of so much suspicion, a place so open that detection was not only easy, but, he might almost say, so impossible to be avoided. In page 708 their Lordships would find it proved that her Majesty was willing to dispense with the tent altogether.

"Do you recollect, at any time, any complaint made by her Royal Highness as to the rate of the vessel's sailing? Yes, I do. "What was the complaint?—It was on the return from the island of Rhodes to Syracuse; the voyage became excessively tedious, and the Princess, naturally anxious to get on shore, attributed it to the want of sailing of the vessel. I stated that she could not be supposed to sail so well with a tent on deck. Her Royal Highness said, "As to the tent, I do not care at all about it; I would as soon sleep without it."

Now he must call upon their lordships to consider the fitness of this awning for the purposes so absurdly alleged to have been the cause of its having been used. Supposing the Queen to have been in the habit of carrying on an adulterous intercourse, he would put it to their lordships whether it was consistent with reason or sense to presume that adultery had been committed under the tent? While the Queen slept in her own cabin, and Bergami in the dining-room, as in the voyage out, there was every facility for carrying on an adulterous intercourse without observation or detection. If, then, the Queen—he repeated the supposition with disgust and indignation—was acting under an influence which degraded her to the rank of a common prostitute—he asked their Lordships, whether they could believe that she would exchange her luxurious bed in the cabin, secure from intrusion or interruption, for a bed on deck, exposed to the observation and intrusion of all on board? Was it consistent with any principle of human reason to believe that her Majesty, having all the means of the most ample gratification, should prefer a course and a

mode of proceeding that led necessarily to detection? She must have been insane as well as guilty, if the evidence for the prosecution were entitled to the slightest credit. If a single blast had sprung up, such a blast as is often felt off the coast of Sicily, the awning on the deck of the polacre might have been carried away, and her Royal Highness have been exposed to the gaze of the crew, in all the shamefulness of her situation. Was it probable, was it possible, that she should voluntarily incur the hazard of such a disclosure? There was not one of their lordships who, he was sure, would not readily understand the necessity, in other respects, of the Baron Bergami's attendance near the person of his Royal mistress. The crew was composed of 92 Sicilians, all of them unknown to her Majesty. Now, admitting that their fidelity was above all suspicion, was it unnatural for her Majesty to entertain some apprehension as to the possible indecorum and forgetfulness of a drunken sailor? Was there no occasion, under such circumstances, for the immediate presence of a faithful and trust-worthy servant? It was most uncharitable as well as erroneous to impute evil intention, or to draw inferences of guilt from a circumstance of this kind. They had it in the evidence of Lieutenant Hownam that the attendance of a female servant was a thing impracticable in the situation in which the Princess then was. It would hardly be said that her Royal Highness ought to have gone back, and relinquished her purpose. The voyage was undertaken, and it would have been idle and frivolous to abandon it. If Bergami had been taken, not with a view to the assistance and needful protection which he might render, but had been adopted as an intimate companion and associate upon this voyage between Syracuse and Jaffa, it would have been no ground for any judicial opinion, or for any solemn judgment at their Lordships' tribunal. Supposing the charge to be of a capital nature, he who would pronounce a judgment of death upon such evidence or proof, would be guilty of judicial murder. They had before them on this part of the case, the testimony of a witness whose veracity no honest mind could suspect. According to the evidence of that witness, the circumstance of Bergami's stay at night near the Princess made, at the time of its happening, no impression on his mind as to the existence of any impropriety. Yet in the course of nature some incidents had, at this distant period, escaped from the memory of Lieut. Hownam, and their Lordships were now asked to come to a conclusion on the ground of their own inferior and partial knowledge, entirely opposite to the feeling and impression made on the mind of that gentleman when the circumstances actually occurred. The conclusion which they were told on the other side that they ought to ar-

rive at was a conclusion of guilt, to support a Bill of Pains and Penalties against her Majesty the Queen of England. It was not surprising, it would rather have been surprising if the contrary had appeared, that Mr. Hownam's recollection should not serve him as to all the particulars of the voyage. He would, however, now call their Lordships' attention to a material part of his evidence on this subject. When questioned (as would appear in page 715 of their printed minutes) about the scenes which took place on board the polacre, his statement distinctly was, that he never discovered any thing indecent or improper. Would any judge, who had the smallest regard to his own character and conduct, infer from what was stated by such a witness as Majochi that her Royal Highness had conducted herself with impropriety and indecorum on the voyage across the Mediterranean? He should himself have conceived that her situation, the perils that she encountered, and the bodily sufferings which she endured, would be regarded as well deserving sympathy and pity; and that it never could enter into the mind of any man to convert them into evidence of irregular or carnal enjoyment. In page 714 of the evidence Lieut. Hownam directly contradicted important parts of Majochi's statement. In pages 87 and 89 this latter person completely fixed himself to the assertion that the bath was placed in her Royal Highness's cabinet. Now, in this representation, he must have intended wilfully to deceive; for, in page 714, Lieutenant Hownam clearly showed that the bath could not have been so placed, Majochi too had persisted in his statement, after five questions put to him in succession. The recollection of De Mont seemed to fail her entirely on this part of the subject; she was lost in uncertainty, and could not remember whether there was any change of clothes, or whether she had seen any wet clothes, upon the occasion of her Royal Highness using the bath. In order of time he must now touch on the occurrences at the Holy Sepulchre; but there was one fact stated in evidence, and to be found in page 107 and 108 of their minutes, which had, he thought, been somewhat overlooked by his Learned Friends. During the examination of Gaetano Patuzzo by their Lordships, it was alleged that some of the gross indecencies mentioned in the charge occurred at a time "when other people were walking the deck in the cool of the evening, and might see all that passed if they chose to look." Surely the mere reference to a statement of this kind was sufficient for its refutation. No man in his senses could believe it for a moment. He would not wade through all the details of evidence, not less incredible or preposterous, but he could not avoid expressing his astonishment that such evidence should be offered in support of a charge

hitherto unheard of in any court of justice, and a parallel to which he verily believed was not to be found in the annals of any nation. Gracious God! that it should be recited in the preamble of a Bill of Pains and Penalties, and on the authority of evidence like this, "that her Majesty had engaged at Milan a servant in a menial capacity; and that, while in that situation, an unbecoming and disgraceful intimacy commenced between her and that individual; that he was advanced by her to a high situation, with extraordinary marks of favour and distinction!" &c. It was added, that her Royal Highness had conferred an order of knighthood instituted by herself upon this individual. God alone knew what law had been infringed, or what or whose prerogative had been violated by the institution of this order. If it were at all an offence against human law, or a trespass on the sovereign power in any state, it appeared to him to be an offence against the dignity of the Grand Seigneur. How was he to defend his royal client against this imaginary wickedness of conferring on Bergami a mark of distinction which was bestowed at the same time on Mr. Hownam, Mr. Flynn, and on William Austin? The offence, however, such as it was, had undoubtedly been committed, and he had only to submit that the punishment ought to be commensurate. The symbol of the order was, he could assure their Lordships composed of riband, and not of straw. He would not waste their valuable time by any further animadversion on this subject; but content himself with asking—what must be the dark malignity, the settled rancour, the atrocious inhumanity, of those who could lay such a circumstance before that illustrious assembly as a proof of a guilty and licentious passion? There never was a more complete mockery of justice, or a more signal example of the possibility of converting the most innocent actions into evidence of culpable behaviour. It showed to demonstration how easy it was, when some persons were so disposed, to find matter for a Bill of Pains and Penalties. He would now, however, shortly advert to some parts of the evidence given at their Lordships' bar, and which did not seem to have hitherto attracted any especial notice. In the first instance he would call their attention to the testimony of Luigi Galdini, which would be found in p. 385 of their printed minutes. According to this man's story, he had been, during her Royal Highness's residence at the Villa d'Este, in the employment of a person named Guggiari; and in seeking for his employer at one time, somewhat early in the morning, at the Villa, he opened a door, and discovered the Princess and Bergami in an indecent position. It was extremely probable indeed that a mason should walk into the palace of a Princess, with the view of looking

for his master, and that he should meet with neither chamberlain nor domestic servant on his way before he entered her Royal Highness's apartment. At the Villa d'Este she lived surrounded by all the form and state belonging to her rank, but it seemed could not avoid the intrusion of the artisans who lived in her vicinity. This witness, however swore that in he certainly walked, and after passing a great many doors, at length opened one where he beheld the scene alluded to. Now let their Lordships mark what followed:—"I opened the door," said he, "and shut it again immediately, in the twinkling of an eye." On what were the Princess and the Baron Bergami sitting? The answer to this question was, that the witness did not know whether it was a sofa, an easy chair, or a small bed: he made his escape in a moment, without any particular observation.—Immediately, on the very back of this statement, he acknowledged, or rather related, the following conversation as passing between himself and Bergami on that occasion:—

"When you opened the door what did the Baron do?—He took his arm from the neck of the Princess, got up, and said to me, what do you want from here, you dog?"

"The interpreter observed, that the witness's expression was somewhat stronger—it was "*razza di cane*," which meant "son of a dog."

"What did you say to the Baron? I said, you must excuse me, Signor Baron; I came here to look after the *fattore*, for I have got so many men, and I want the materials to set them to work."

"Did the Baron make any reply to that? He told me that was not the apartment of the factor, and that I ought not to be looking for him there."

All this was represented as passing in an instant, in that twinkling of an eye during which the discovery was made, the door opened, and the escape of the witness effected. He really thought such a piece of evidence deserved a public exhibition as much as any of the rare and choice productions of nature. But they were told that her Majesty, who had never manifested such a propensity at Blackheath, became afterwards addicted to the practice of swimming in the river Brescia. Here again, unfortunately for the charge, it was proved that the depth of the water was not above 2 feet, or 2 feet and a half, although it had been sworn by Bianchi that her Majesty's clothes were wet at the top on her coming out of the stream. It was to listen to probabilities of this nature that their Lordships had been detained forty days—had been obliged to perform quarantine. With regard to Mahomet's dances, he had no sooner heard the account given of them than he had set on foot some inquiry con-

cerning him. He was now happy to inform their Lordships that Mahomet was on his way to this country, that Mr. Elliston had kindly given him an engagement, and that their Lordships would soon have an opportunity themselves of witnessing his exhibitions on a somewhat wider stage—viz. at Drury-lane theatre. (a laugh.) But these were circumstances never to be forgotten in a serious consideration of the case. The most dangerous and artful falsehoods seldom consisted of pure invention. They were generally founded upon facts when they were to be made the materials of perjury and conspiracy. On such occasions truth formed the outline, but misrepresentation and falsehood filled up the picture. Let them consider with what artifice, in page 432, the account of the scenes at the Barona was given. It was stated that persons of distinction came at first, but ceased to come in consequence of the introduction of low people. But, with regard to this, it was remarkable that De Mont herself said she had made no particular observation; and by Mr. Hownam's evidence, in page 716, as well as by Capt. Vassall's, in page 982, it clearly appeared that the Barona was a small country-house, although magnified by his Learned Friends on the other side into a spacious and magnificent villa—prodigally, suspiciously bestowed, by her Royal Highness on the favourite and boggary Bergami. It also appeared clearly that no entertainments were ever given there, except to about forty or fifty farmer's daughters, and persons in the neighbourhood, that it was carnival time; and that the Queen always retired before the servants joined the party. Such was the real truth of a story which ought never to have been told without producing Mochatti, the curate and the prefect, to confirm it. In adverting to the concurrences at Carlsruhe, and to the evidence of Kress, he must remark that they stood in a peculiar predicament. Kress was a witness who had been compelled to appear at their Lordships' bar and to depose against the accused. But all the exertions of his Majesty's Ministers and of the British Government had not availed to bring over to England the Chamberlain of the Grand Duke of Baden, a witness for the defence. He did not mean to cast any blame on his Majesty's ministers, but the plain and undeniable fact was as he had stated it. Either Kress was forced to come, or she had sworn what was untrue. This would be seen at once by referring to pages 192 and 202. If she stated what was true, their Lordships could never have met with a case of greater oppression and tergiversation than that which stared them in the face in the conduct of the Grand Duke's Ministers, the Baron de Berstett. If indeed, what was stated by Berstett was true, the witness Kress had committed perjury.—

It was, however, too much to hear this minister afterwards saying in his correspondence with Mr. Lamb, that he "trusted his exposition or facts would furnish a most convincing proof of the partiality and justice of his government." If the government of Baden had been just or impartial, then he repeated it, Kress was a perjured witness. "If, my Lords," (continued the Learned Gentleman) there has been influence more powerful than that of Great Britain exerted upon this occasion—influence, which has operated not only in deterring the Baron d'Ende from coming to this country, but which has even induced the Minister of the Grand Duke of Baden to falsify himself in the eyes of the whole world—in that case, I would ask your Lordships, whether there is one among you who will tell me that I am to proceed with my defence to Carlsruhe; where British influence has failed, but where other influence has succeeded in compelling the attendance of witnesses on the opposite side, at this bar, and in withholding, at the same time, the witnesses for our case. I will not stain the purity of your Lordships' proceedings, I will not pollute a court of justice, by dwelling more than for one moment upon these disgusting facts. I will not impugn the integrity of this House, by supposing that there is now within it one honest ear which will not be shocked at their recital." He meant to cast no political reflection upon any particular country; he viewed with no contracted prejudices any noble foreigners; but he was sure that the house would unite with him in looking with deserved contempt upon some individuals among those foreigners—upon Hanoverian ambassadors, for instance, taking upon themselves the dignity, the honour, of becoming inspectors of dirty sheets, and searching into the contents of foul clothes bags. Why, then, to the great shame and disgrace of those individuals, he would say, (and at least, for the morals of England, he might say it,) that they had been actuated in this their meritorious proceeding, by the native propensity of their souls to grovel in filth, and to revel in obscenity. He need hardly state, that in such a disgraceful cause no individual would be found ready to embark who boasted the name of an Englishman; much less one who bore that character. He would now trouble their lordships with no more instances, with not another single observation drawn from, or applying to, the particular accusation contained in that part of the evidence to which he had adverted. There was, however, one point in this case which he held himself bound to bring under their lordships' consideration, and which, he thought well deserved their notice. They had been told that they had closed their case without producing the boy



Austin, the Countess Oldi, Mariette, the half-sister of De Mont, Schiavini, or others, who are now in attendance within this house as witnesses summoned on the part of the Queen. With an astonishment which he never could forget had he heard his learned friends on the other side charge them (the Queen's counsel) to produce their witnesses! When these counsel had established no guilt, they were to be told, "you shall establish her innocence;" as if this were really an inquiry into the conduct of the Queen, and not a hostile attack, founded upon false evidence, procured by the most iniquitous means, against the honour, rank and character of her Majesty. Produce their witnesses!—as if his learned friends, now that that they had finished their case, could bring forward one single instance among their list of criminal charges, which was made out against her, which was not, in deed, absolutely refuted. Let their Lordships consider, for a moment, the case as it now stood. At one period of it, his learned friend, Mr. Brougham, had said, after finishing, perhaps, one of the most able and eloquent arguments ever yet addressed to that house, again in M. De Mont, "notwithstanding all this, I will call her. Mr. Brougham was right in saying so at the period of that case. He was right, because the Queen's witnesses had not then arrived. His learned friend did not then know, that they should be able to take the case, particle by particle, and to show to demonstration its fraud, falsehood, and perjury. "Therefore," said he (Mr. Brougham), "we must meet this case, by adducing general evidence of the Queen's conduct in opposition to all that De Mont upon her cross-examination may be able to say." But now that the case was changed, he (Dr. Lushington) would ask their Lordships in the name of common sense, how these witnesses would stand? They were the witnesses best known to the Queen—who had had the best opportunities of observing her conduct—who were under the greatest obligations to her. Now, if no stories could be extorted from these individuals against her, if no serious ground of charge could be got at, out of their depositions, then what an outcry would there be raised against them? His learned friends would directly exclaim, "Oh, their evidence is not credible: they are under obligations to the Queen; they are relations of Bergami, they cannot be believed." Would any counsel who did not deserve to have his gown stripped off his shoulders venture to produce witnesses under this liability and disadvantage? Aye, but was this all? If they were persons so connected, if they were people of credibility, why he would ask, had they not been produced on the other side? Why had not the Solicitor-General, who had told their Lordships that he had laid before them all the testimony

which was deserving of credit, exerted himself to obtain evidence of a character more unquestionably than his own? Even upon this argument, was this credibility to be the exclusive privilege of those who appeared on behalf of the accusation? Were they to reject these witnesses as non-essential and not deserving belief, and to say that the others were essential witnesses to the cause? Under such circumstances, were the Queen's counsel to be required to produce testimony that was liable to be so met? No man of judgment would have done so, or necessity alone could justify it. Did that necessity exist upon the present occasion? Let his learned friends point out to him one single part of their case supported by any credible testimony, which they, the Queen's counsel, had not met; one single accusation which they had not rebutted. Before he (Dr. Lushington) put Mariette into the box, he must have something further to do. He would not bring her there to disprove charges resting upon testimony to which no man could give credit; to be exposed to the merciless fangs of such a cross-examination as Carlo Forti and some others of the Queen's witnesses had undergone. It was not he could assure he house, that he feared the terror of a cross-examination as applied to any one of those persons who had formerly surrounded her Majesty, while that cross-examination was confined only to the acts of the Queen. While that was the case, he feared not even the opportunities for misrepresentation. But when he saw what had been the course taken here; when his memory served him to the instance of the Earl of Guilford being rigorously cross-examined as to some declaration made at a private dining-table about a Greek servant; and when he remembered that that declaration was not once charged by either of his Learned Friends in the opening, but came out only in the course of examination; when he saw another person examined as to a scene that had occurred at the Villa d'Este, years since, and of which they had not heard till the moment in which the question was first put from the other side, he was sure that he should only expose a witness to that unfair species of examination in chief which any knowledge of his, as to the fact, could not, upon cross-examination, set right. What he contended for, then, was this—that the Queen should be tried by her own acts; by what she herself had said or done: every witness produced upon the other side was obliged, upon his evidence in chief, to speak to those acts of the Queen; but if they (her Majesty's Counsel) produced a witness, and if, in the course of the whole six years, it unfortunately happened that some lapse of memory, some quarrel with Bergami, some personal caprice, or any other of the numberless incidents which such a space of time must necessarily furnish, should have in-



passed him to do what?—why, to have uttered an expression which could by possibility be tortured into an expression of disrespect towards the Queen, what consequence could follow? This—that the Queen would suffer, not from what she had said or done, but from what one of her witnesses in a moment of passion, forgetfulness, or accid ut, might have said or uttered. Their Lordships would remember in what manner Lieutenant Hownam had been asked as to his declarations, and how other witnesses had been interrogated upon the same point. There was one other circumstance that he was sure they would not forget—that the purpose of inquiring into the declarations of witnesses was to attack their credit by procuring a contradiction. Would any man who presumed to advocate a cause be justified in producing witnesses who were to be examined as to such declarations when the whole depot of Cotton-garden might be produced to falsify them; and was always in readiness to come forward for that purpose? Believing this to be a case of the kind he had described, to be a false, foul, dark, and malignant conspiracy, he had no hesitation in saying, that judging not by the arguments that had been offered, but by the experience of the past, by the records upon their Lordships' table—not by what witnesses might do, but by what they had done—it would be easy for his learned friends to renew those disgraceful scenes which had already been manifested at their Lordships' bar, and by means of the same description of testimony to contradict whatever evidence the Queen's counsel might call. Therefore it was, he maintained, that necessity had not called upon him to discharge that duty, and he did hope that the first duty of a counsel was not to expose his client to the risk of an injury; while there was any man who in the honesty of his heart dared to say that there was no accusation which was not disproved. Their Lordships would think him justified in saying that there was now not one point in this case which required further elucidation. If he turned to look at the examinations, and to contemplate the difference between the witnesses whom her Majesty's counsel had produced and those produced on the other side, fearlessly would he hold it up as one of the most singular contrasts which the annals of legal proceedings could furnish. He could say, look at their character; look at their conduct; but, above all, look at the obligations on the one side to speak the truth, and the absence of all those qualities on the other. Witnesses their Lordships had in abundance; they had seen a commission instituted for the express purpose of doing what?—of inquiring into the guilt or innocence of the Princess of Wales. He knew not the tenour of the instructions under which that commission acted, but by their effects he knew what those instructions

were. And this he knew—that the moment the commissioners were established at Milan, they began by taking the testimony of discharged servants, and never once availed themselves of the opportunity of examining whether that testimony could be contradicted or confirmed by persons of greater respectability, and under less suspicious circumstances. What, then, was the state of this case? He would ask the house if such an instance ever occurred in any former proceeding as that which he was about to notice. The witnesses against the accused were discarded by the accused, and retained by the accuser. They were taken into the employment, and received the pay of the prosecutor himself. Their Lordships could not but consider as one additional circumstance of odium attaching to the whole of this proceeding the absolute, the indisputable, temptation thus thrown in the way of some of the parties. He besought their attention to the existence and the operation of this fact: Rastelli was taken away in the first instance; Sacchi came next, and then these men themselves were sent to seek confirmation of those very fabrications and evidence which they were the first to originate and to arrange. Gracious God! what could be the end of a measure proceeding upon the testimony thus procured? What would the event prove, or who could foretell the consequence of an investigation resting upon the evidence of men who had so acted? Did any one ever hear of a precedent for so extraordinary a case? Here were two of the witnesses, Sacchi and De Mont, who had been kept at the sole expense of the prosecutor for 15 months previous to their appearance at the bar, and two others of them, Rastelli and Majocchi, certified and acknowledged to be in his employment. These were facts more than amply sufficient to demonstrate the anomalous and unjust nature of that commission: that commission, indeed, sat not, acted not, for the purpose of truth. Having opportunities by examination and inquiry of acquitting the Queen from the foul slanders propagated against her, they had proceeded to prepare and encourage accusations against her: vested with sufficient powers to ascertain and defeat the malevolence of her enemies, their conduct had tended only to injure and betray her. There was not one of the witnesses produced before the house who possessed any one of the qualifications which are the usual characteristics of truth; they were persons of no character, at least they had none to lose; they had no punishment to dread, and even after they arrived in England they must have learnt from the memorable example and timely flight of Rastelli, that whatever had been the falsehood of their deposition, or however it might be desired rigorously to sift their evidence, impunity and escape might yet be possible. They were, therefore,

in no fear of punishment even in the event of contradiction. Now, was it requisite for him to say one word as to the proof of the existence of this conspiracy? He thought his Learned Friend (Mr. Denman) had left it so established, that no observation from him was requisite: nay, he would say this: the parties accused, it must be confessed, were Colonel Browne, Vilmarcati, Reganti and Rastelli; he had, he must own, heard one word said in favour of Colonel Browne; but not one could be urged in favour of Vilmarcati. Of those who alone could have proved or disproved the charge, Rastelli was gone to Italy, (and his departure had been justified on false pretences); and the other, Reganti, was the very individual who first procured the services of Rastelli, as their Lordships would find at page 42. This latter the other side had not dared to call; had they done this—had they boldly put Reganti to the bar, and brought him to contradict the testimony of Pomarti and Carlini, then might they have said, with something like a seeming of fairness, and with something like a show of justice, that they had openly met the charge. The Queen's counsel had done all that was required for the ends of justice; he said nothing against those who were with the prosecution; but when he saw that they had neglected so to avail themselves of the means of calling such evidence as might elicit the truth, when they had dared to put one of the principal conspirators in the box to answer for himself, away with this false pretence of justice—away with this frivolous pretext of fairness, and with every claim to openness or impartiality. Let it be remembered that there was at this time no impediment to bring forward such evidence with becoming honour and fairness. What argument, then could justify the course that had been taken? If he ventured to assign any one, it would be this—the consideration of Vilmarcati. Never once in the course of the cross-examinations did his Learned Friends presume to approach any facts that should prove, that as far as Vilmarcati was concerned, the whole of this abominable and atrocious conspiracy had been carried on by means the most unjustifiable; that the evidence which the Milan commission procured had been procured by means which an honest man would have shrunk with horror from employing. He would, however, say nothing farther of the conduct of those who, having the power, ought to have used it to discover the truth. All he would say was this—that, vested, as it was, with all the means which a First Lord of the Treasury could command, possessing all that influence over foreign ministers which he could exert, established in full authority at Milan, and sending its couriers and agents throughout all Italy and Germany, never had the un-

limited power of this commission, particularly its power of information, been exercised in one solitary instance to attain the ends of justice, Sir Wm. Gell remained in Italy unquestioned; Mr. Craven in Italy unquestioned; Dr. Holland unexamined; the Count Vassalli uncalled for; Sicard unthought. He did not say what ought to have been the course these individuals should have adopted, but he did say, that when all these powers were intrusted to the hands of the accuser, it was the most extraordinary—the most solitary instance of their exertion in any other way which he had ever heard of, that Lieutenant Hownam was sent for by the First Lord of the Admiralty to be asked where James, the seaman, was, after all the industry and perseverance which had been manifested in support of the prosecution—one-half of that industry and perseverance excited, bona fide, for the interests of justice, would have spared their Lordships the painful duty of now listening to those well-founded representations her Majesty's counsel were bound to make. An impartial investigation of the evidence on both sides before the proceeding was instituted, would have saved the country from the evils which at present impended over it. He had now to thank their Lordships for the indulgence with which they had heard him, after their attention had been already so many times engaged by this strange inquiry. He left his illustrious client, her honour and character, in the hands of the House with the most perfect confidence: he left her, not to the mercy, but to the justice of their Lordships.

Dr. Lushington having retired from the bar,

EARL GREY observed, that at this late hour he thought it would be unfair to the Learned Gentlemen on the other side to require them to commence their reply. Before the House adjourned he would, however, take the opportunity of stating, that after reconsidering the subject, he did not intend to persevere in the motion of which he had given notice on a previous day: the production of depositions abroad could only apply to De Mont and Sæchi, because they only appeared to have been sworn to those depositions. Had he given his notice at an earlier period of the inquiry, it might be proper to persevere in it; but it seemed useless now to call for depositions when no opportunity would be afforded to the witness of reconciling, if possible, any apparent discrepancies. For this reason he withdrew his notice, though he thought it right to add, that with regard to the two principal witnesses he had named, he certainly wished for no further information.

The House then adjourned at twenty minutes past 3.

**House of Lords,**

FRIDAY, OCTOBER 27, 1890.

The LORD-CHANCELLOR took his seat at ten o'clock. After the usual forms had been gone through, some minutes were occupied in administering the oaths to a Peer; after which the Counsel were called in.

### THE ATTORNEY-GENERAL'S SPEECH IN REPLY.

The Attorney-General commenced his reply in so low a tone of voice, that a great part of his introductory observations were either entirely lost, or very imperfectly heard. He expressed, as we understood, the reluctance he felt at having once more occasion to call upon their Lordships to hear what he had still to state on this subject; not that he was not impressed with the deepest sense of the importance of the case, but because their Lordships' attention had already been so severely taxed, and their time so much occupied. His Learned Friends on the other side had been for the last three days in addressing their Lordships, and therefore their attention must now be in a great measure exhausted. Besides, the subject itself had, by frequent discussion become trite. Independently of these considerations, he felt his own inability, and could not help entering on his task with anxiety, especially when he considered that in consequence of the great length and eloquence of the speeches of her Majesty's advocate, he might be under the necessity of making a larger demand on their Lordships' time than under other circumstances he should have thought advisable. Before, however, he approached the facts of the case, he hoped their Lordships would permit him to advert to a topic which had been much dwelt upon, and strongly and frequently urged on their attention in the course of these proceedings, namely, the peculiar disadvantages under which her Majesty was alleged to labour in making her defence. But whatever might have been said on that topic, he had no doubt that their Lordships would agree with him, that the whole of the allegations connected with it were unsupported by fact, when they came to consider the manner in which the proceedings against her Majesty had been conducted. When all the witnesses for the prosecution had been examined, and their evidence printed—when all the charges and the proof had become fully known to her Majesty—at that important period, at the close of the evidence, their Lordships permitted the case to stand over, and allowed her Majesty whatever time she might think fit to demand for preparation. Unlimited funds were placed at her disposal to answer every expense which might

be incurred, and every facility which the Government of this country could afford for procuring witnesses from abroad was supplied. He hoped that this extraordinary indulgence which their Lordships had been pleased to grant would not be hereafter drawn into a precedent, for nothing could be more hazardous in the administration of justice than such a practice of affording time to answer a case after the evidence in support of the charge was gone through; and this observation, applied particularly to the present case, according to the showing of the other side. It had been alleged that the witnesses were perjured and corrupt, because such testimony was easily procured in the country from which they came. But if perjured testimony could so easily be procured, did not the publication of the evidence, and the delay allowed for the defence facilitate the obtaining it? He was sure, therefore, that her Majesty had sustained no disadvantage from the manner in which the proceedings against her had been carried on; and that she would have had no reason to complain of her defence being injured, even if the most extraordinary talents had not been employed in conducting it. Her case was now presented to their Lordships, not under circumstances of disadvantage, but under those of advantages with respect to means of defence, and the ability with which they were employed, never before experienced on any other occasion. If, then, after all these great means and resources, they have failed, if the case remain as it originally stood, uncontradicted, nay, if it be supported by the evidence adduced on the defence, her Majesty certainly cannot complain that her failure is owing to any impediment experienced in her defence. She cannot complain that she has been deprived of the means of setting forth her case, and must admit that she has possessed the peculiar advantage of having called most extraordinary talents to her aid. Under these circumstances, the path he had to pursue was a plain one, though it might be painful and tedious. He could not enliven it with the eloquence of his Learned Friends, nor scatter over it those flowers of imagination in which they had indulged. To them the field of ornament was open, all the brilliant illustrations of antiquity, and all that modern authors afforded were in their power, and they could resort to them to captivate the feelings or adorn their orations. To them, as he had said, this field was thrown widely open, and they had entered it, and availed themselves of the advantages it afforded to the utmost extent. He was, on the contrary, condemned to call only simple facts, and lay them plainly and unadorned before their Lordships; to examine with care and attention the evidence which had been adduced in the case, upon which facts and evidence their Lordships must ultimately decide, without reference to any

of those irrelevant topics which had been so so unsparingly introduced.—The charge against her Majesty was contained in the preamble of the Bill; but that had been so often repeated in the course of their proceedings, that it would be a waste of their Lordships' time were he now to stop to describe it. But, before he advanced to the facts of the case, he trusted he might be permitted, in the outset, to avail himself of what had been acknowledged by his adversaries, who had been compelled to admit that the case for the Bill was complete, if the evidence was to be credited; that if the witnesses were to be believed, they had fully proved all the charges contained in the preamble. He must also avail himself of another admission, not merely made by the speeches but by the art of his Learned Friends. They not only admitted that the case for the Bill was sustained by evidence, but they showed that they considered it evidence which required the fullest answer. They had accordingly employed three weeks in examining witnesses, and six days in speeches to reply to that case, which, as it stood, was acknowledged to be triumphant. Then, while their Lordships were considering the evidence, let this admission never be forgotten. In examining the evidence adduced for the defence, their Lordships would now have to consider not so much how far it had contradicted, but how far it had confirmed the charges proved in support of the Bill. In this case the most artful—he did not say so disrespectfully, for it was most judicious for advocates, under the circumstances in which they were placed—but the most artful conduct had been resorted to in the defence. His Learned Friends had constantly taken care to select insulated and minor facts, for the purpose of pointing their contradictions against them, while they left entirely out of view all the leading facts of the case. They then argued on those insulated facts as if the whole merits of the case depended on them, and turned completely aside from the consideration of all those important facts and circumstances by which their Lordships' judgment must be guided. Before he proceeded to examine the particular facts, he would therefore, with their Lordships' permission, recur to the leading circumstances to which their attention would have to be constantly directed in forming an opinion on this case. The first of these circumstances was the favours shown by her Majesty to that person whose name had been so often mentioned in the course of these proceedings—he meant Bergami. That man was taken into her Majesty's service at Milan in the month of October, 1814; that within a few short months, that man, without any apparent motive on the ground of his services, was taken into particular favours; that without any reasonable cause, without any pretence, without any object that could

be conjectured, except that of the licentious intercourse charged in the Bill, that man was advanced, and placed on a footing of familiarity with his mistress; and that while he still held a menial situation at Naples, his child and other members of his family were taken into her Majesty's household. Their Lordships would also find that within a short period after he was engaged, and while he was still a courier, he dined with his Royal mistress, and that he was very soon after raised to a station which regularly entitled him to that honour. Their Lordships would likewise see in the evidence the proof of his having been loaded with titles, doubtless procured through her Majesty, because it was absurd to suppose that such a man as Bergami had the means of obtaining them. He was now placed on terms of the closest familiarity with her Majesty, and that intimacy continued for a period of six years without diminution, until she arrived at the opposite shore on her way to England, when he was dismissed—not, however, dismissed her service, but to a seat which the Queen had provided for him at Milan, her regard for him continuing the same, though she had not brought him to this country. These facts his Learned Friends had not attempted to contradict. They were admitted on all hands, and their Lordships could not displace them from their minds in coming to a decision on the bill. Therefore, while his Learned Friends seized on the cases at Naples and on board the polacre, which were insulated facts, their Lordships would perceive that they were to be considered with reference to the leading fact he had now mentioned, and with that inference form their opinion on the whole case. Before he approached the facts of the case, those from which the adulterous intercourse was not merely presumed, but, as he contended, proved, he could not too strongly impress on their Lordships' minds the necessity of never leaving out of their view the manner in which this man had been taken into favour by her Majesty, the manner which his family had been taken under her protection, and the manner in which he himself had been covered with honours, and presented with estates. Having made these introductory remarks, he would now turn to the evidence, and examine the facts in the order of time in which they had been brought before their Lordships; and the statement he was about to make he was confident would receive their patient and anxious attention. Bergami having been hired at Milan as a courier, under circumstances he should hereafter examine, proceeded in that capacity to Naples, where her Royal Highness arrived in the month of November, 1814, and from that time commenced the evidence in support of the preamble of the bill. In entering on this part of his subject, he would remark that his Learned Friends did not consider the evidence



as it really stood, but in reference to his (the Attorney-General's) opening; and, because it fell short of that opening, they inferred that his was of no value, and said, unless the case opened was all proved, the whole of it must fall to the ground. It was, however, their Lordships' duty, as judges, to discard altogether his (the Attorney-General's) opening, which he was justified in making, on the expectation that it would be substantiated.—But their Lordships were to decide on the evidence only. His Learned Friends knew too much of the practice of courts of law not to know that no counsel was tied down strictly in stating his case. In every instance a wide field was left for the counsel in this respect. But suppose he were to grant the assumption of his Learned Friends, what state would they themselves be in when he showed how they failed in supporting their case? He had, at the worst, attempted to substantiate his opening; but they had not ventured to substantiate their opening. They promised to produce witnesses at their Lordships' bar, whom they either could not or dared not produce. Let then, the case at Naples be examined by the principles he had stated, and their Lordships would find that, if what he had opened with respect to it was not proved to the full extent, yet that it was substantially proved. What was that case? It was that her Majesty had altered the arrangements which had previously existed respecting William Austin, who used to sleep in her bed-room; that on the second night after her arrival at Naples, Bergami, who had previously occupied a room in the garret near the other servants, was removed to another apartment, between which and that of her Royal Highness there was a private communication: that upon the night of the opera she returned home at an early hour, and, having made an excuse, and dismissed William Austin from her room, that then the act took place which formed the foundation of the charge against her Majesty. Their Lordships would find that there was ample evidence of facts, that led to the conclusion that an adulterous intercourse then took place. How, he would ask, was this case met? It remained uncontradicted; though it was asserted by the other side to be contradicted in every part. In the first place, it was said to be contradicted with respect to William Austin. Now let him call their Lordships' attention to the evidence in this point. It was proved by De Mont, that previously to that night William Austin had generally slept in the bed-room of her Royal Highness. Mr. Craven is called to contradict this, and to state that, long before their arrival at Naples, William Austin had not constantly slept in her Royal Highness's apartment; and that he himself, Mr. Craven, who described himself to be one of her Majesty's equerries, but who might have

added to that description one of her monitors—that he had pointed out to her Majesty, in Germany, the impropriety of allowing William Austin, a boy of thirteen, to continue to sleep in her room. He stated that he had in fact given her Majesty a prospective caution on this subject before they arrived at Naples. Did her Majesty obey the caution which was thus given to her? Was the alteration which Mr. Craven had suggested, made, after this communication? No such thing. Carrington, on whose evidence he should have to make no very mild comments before he closed his case, had indeed been called to satisfy their Lordships that the arrangement of Wm. Austin's bed had been altered; but on his cross-examination it appeared that he could not swear whether Wm. Austin had slept more than once or twice out of her Royal Highness's room previously to her arrival at Naples. Not being contented with this evidence, his learned friends had called Sicard to the bar; and so little was the arrangement spoken of known to him, that he deposed that, in the arrangement which he made of the rooms at Naples, he did not allot any apartment to Wm. Austin, except that he would sleep as usual in her Royal Highness's room. Sicard, however, acknowledged, at page 663, that, shortly after their arrival at Naples, Wm. Austin did change from her Royal Highness's room to another room, though he could not exactly recollect the time when, and added that it was in consequence of her Royal Highness saying to him (Sicard) that the boy was too old to sleep in her room any longer, and ought, therefore, to have a room to himself. De Mont had stated to their Lordships, that her Royal Highness had made a similar declaration to her only the night before they arrived at Naples. Sicard's evidence, their Lordships would see, fully corroborated that of De Mont, at the same time that it contradicted that of Keppel Craven and William Carrington; therefore, so far from the evidence which had been given in support of the bill having been shaken by that which had been brought against it, it had been literally strengthened by it; Sicard, who had made all the arrangements of the room, and who, therefore, was most likely to know them, being in flat contradiction to the two witnesses he had just mentioned. That fact being thus established out of the mouths of her Majesty's own witnesses, he should now proceed to the next point in his case. What was it? Why, that Bergami, though he had slept on the first night along with the other servants, had been removed to a different apartment on the second. His learned friends had stated that this removal had been made without the knowledge of the Queen, and by Sicard's authority alone. At page 594 their Lordships would find that, though Sicard had stated he had had no communication previ-



ously with her Majesty on the subject, he had also stated that he had had some communication with Hieronymus upon it. Hieronymus, who might have given some explanation of the nature of that communication, had not been called to give it, and the failure of his learned friends to call Hieronymus upon that point had excited a suspicion in his mind that the removal had originated in consequence of a suggestion of her Royal Highness, conveyed to Sicard through Hieronymus. Sicard was then asked "Do you recollect any reasons you had for this alteration?" and he answered, "The principal reason I had was, that there was a glass door which went into the garden, that was not safe; and therefore I thought that a servant, or some one should sleep there—a male." If the reason of Bergami's being removed to this apartment was really to protect her Royal Highness from danger, and to prevent any person from reaching her cabinet from the garden, how was it he would ask, that the communication between the cabinet and the garden had not been entirely cut off by stopping up the glass door, which would have added so greatly to her Royal Highness's security, which Sicard had declared was the only object which he had in view? But that was the pretended not the real, reason; for though Bergami might be placed there to obtain security for her Royal Highness against all the attacks from without, there was nothing at all to protect her Royal Highness from the visits of Bergami himself. It was worth their lordships' while to observe the manner in which it was attempted to explain this circumstance by Carrington's evidence. He (Carrington) knew of no such reason as that mentioned by Sicard; he had heard of no such motive being assigned for the removal of Bergami; he had never been informed that it had taken place for the security of her Royal Highness. On the contrary, at page 566, he declared the reason why Bergami's room was changed to be because it was so low that he could not stand up in it. When such contrary attempts at explanation were made, and when one of them might have been corroborated by Hieronymus, who had not been called, their lordships would see that the reasons assigned for this removal were by no means satisfactory; and when they recollected the general view of the case which he had previously urged, they would not be able to entertain the slightest doubt of its having been made in order to ensure an uninterrupted communication between Bergami and her Royal Highness. Another point, on which it had been stated that De Mont had been fully contradicted, was the point of time: now he begged leave to say that she had met with no contradiction upon that point, for all that she had stated at page 240, regarding the Queen's return from the

opera, was this—"It seemed to her that she returned early." She had not sworn that her Royal Highness had returned early, but merely that it so appeared. Sir Wm. Gell and Mr. Keppel Craven had been called to prove that her Royal Highness had not returned till a very late hour, and that she had been conducted to the door of her apartment by Sir W. Gell. This was no contradiction to De Mont, who had stated that, after she had gone to her Royal Highness's bedroom, her Royal Highness dismissed her, and went across the passage into the cabinet—a circumstance which his Learned Friends on the other side had attempted to explain by a reference to the water-closet, but in which Sicard had not borne them out. He had now proved that there was no contradiction as to point of time: he would next show that there was none in the relative situation of the rooms of her Royal Highness and Bergami. The free communication between these two rooms did not stand on the evidence of De Mont and Majochi alone, but it had been proved also by the evidence of Whitcomb and Sicard. They had stated that there was a secret communication running between them parallel to the passage which led to the room of Dr. Holland and other persons in the suite. Another point which his Learned Friends had declared was not proved was this—that her Royal Highness had not shown herself till late in the morning after the criminal intercourse had commenced. His Learned Friends had, however, omitted to call the attention of their Lordships to the testimony of De Mont, who at page 309, had stated that after she had dressed her Royal Highness that morning, she (her Royal Highness) went into the small cabinet, where she remained nearly an hour and a half. Sicard had been called to contradict her upon this point but had failed. Sicard stated that, though he recollected going in quest of her Royal Highness when she lived at Blackheath, in consequence of persons being waiting for her appearance, he had not any recollection of such a circumstance having happened at Naples the second day after her Royal Highness's arrival there. This was all that Sicard had sworn, and he (the Attorney-General) maintained that it totally failed to overturn the positive recollection of De Mont. Another fact to which De Mont had sworn was, that there were two beds in her Royal Highness's room, of which one was a small travelling bed, the other a larger bed. De Mont had likewise sworn that the small travelling-bed did not appear to have been occupied at all, whilst the larger exhibited marks of such a description as he should not more plainly allude to.—What had his Learned Friend, Mr. Williams, in his opening speech declared that he would prove in contradiction of De Mont? Why, that he would prove, by the testimony of

another servant, that in consequence of the wind having blown open the casement in her Royal Highness's room, her Royal Highness had called that servant who then saw her alone in the travelling bed. Had his Learned Friends called a single witness to substantiate that statement? Who was the servant in question? Was it Hieronymus? If it was, he supposed that the terror which had operated on the nerves of Lieutenant Flynn had also operated on those of Hieronymus, and prevented him from being submitted to that cross-examination, which he ought to have undergone. But, when he was charged with having failed in making out the case which he had the honour of opening to their Lordships, why might he not be allowed to retort the charge on those who made it? Could a more satisfactory answer have been given to this accusation than by calling the servant who was able to depose to such a fact as his Learned Friends had stated? When their Lordships found that her Majesty had means to contradict the evidence which he had brought forward, and that she had not dared to offer it to their Lordships, the necessary conclusion was, that she was prevented by a consciousness of guilt, and not by any defect in the memory or nerves of her witnesses. He had thus proved enough to satisfy their Lordships that De Mont had been confirmed in all the circumstances which she had stated to have occurred on the first night of this criminal intercourse. She was confirmed as to the time, the place, and the relative situation of the bedrooms, and she had not been contradicted respecting the state of the beds, although contradiction had been opened to their Lordships, for which not the shadow of a witness had been offered in proof. He now implored their Lordships to remark how ingeniously the Counsel on the other side had laboured this part of their case. They said that this part was laboured on the side of the Counsel for the bill; and added that, if they could cut it down, the whole case was destroyed, the key-stone would be removed, and the whole structure would be levelled to the earth. He denied the assertion of his Learned Friends altogether. Even if their Lordships, after the arguments which he had submitted to their consideration, should be of opinion that the intercourse at Naples on the second night was not proved, even if De Mont's evidence were entirely struck out of the minutes, the remainder of the case was not touched; because, whether the intercourse commenced at that time or not was immaterial, since there was ample testimony to lead their Lordships to believe that it commenced afterwards at that place, or, if not there, at other places, long before Bergami was elevated to his honours. The second case proved by De Mont was the meeting with Bergami in

the corridor in a state of undress, approaching towards the chamber of her Royal Highness. He was surprised to hear the Solicitor General for her Majesty observe, in commenting on the evidence offered in proof of that fact, that it was calculated to excite a suspicion that an improper intercourse was carried on between Bergami and De Mont, rather than between him and her royal Highness. The statement which De Mont had made was, that being about to return from her Royal Highness's room to her own, on opening the door for that purpose, she saw Bergami advancing along the passage in a state of undress; that, in consequence, she made her escape to her own apartment as fast as she could; and that she afterwards heard the lock of the door turned, to prevent any subsequent approach to that quarter. His Learned Friends had shown, by the observations which they had made, that they knew not how to deal with that part of the case. It was clear that they thought it to be an undeniable proof of her Majesty's guilt, and they had therefore endeavoured to withdraw it from their Lordships' notice by the multifarious remarks which they had made upon it. It might, however, have been contradicted by other witnesses; but it had not, and therefore it was another convincing proof of her Majesty's criminality. He next came to what occurred at the masked ball: his Learned Friends had made great exertions to do away with the evidence on that point; but had they succeeded? He trusted that, when their Lordships calmly examined all the testimony which had been offered on this point, they would be of opinion, as he was, that it did not contain the slightest contradiction to the evidence of De Mont. Her statement was, that, after her Royal Highness had made her appearance in the dress of a Neapolitan peasant, she withdrew from the ball-room; that she retired to her dressing-room, to which Bergami accompanied her; that she stayed there for three-quarters of an hour; and that she afterwards came out of it dressed as the Genius of History, and went down stairs in that character. That she had appeared in such a dress was not now disputed; and he would maintain (whatever the opinion of Sir Wm. Gell might be) that it was not, even from his description, one of the most delicate nature. Sir W. Gell had compared the dress to that of Minerva, in Mr. Hope's Costumes, and to that of the Cariatides in the Townley Marbles. Those who had seen those figures informed him—for he had not seen them himself—that their dress was a thin drapery, leaving the arm bare up to the shoulder. Yet Sir Wm. Gell, though he had seen her Royal Highness in this dress for so short a time that her appearance operated on him like a flash of lightning, had such very good optics, that he could observe, that there was another

dress under it, the same which she wore when she was a Neapolitan peasant. Sir W. Gell admitted, however, that there was a considerable delay before her Majesty returned; that there was a great anxiety in the company to see the exhibition which it was known her Royal Highness intended to make; that, at last, the doors opened, when her Royal Highness was seen for a moment in the act of crowning the bust of Murat with a wreath of olive or laurel. The delay which Sir W. Gell had admitted accorded with the time mentioned by De Mont as spent in the dressing-room along with Bergami. He must next call their attention to what had been said by Mr. K. Craven at pages 536 and 539. Their Lordships would observe, that Mr. Craven, at the same time that he affirmed there was nothing indecent in the dress, also added that he had observed it only for a moment. His examination was as follows:—

“Did you see that dress which you were told was the Genius of History? I saw it for a short time.

“On that night? That night.

“Be so good as to state to their Lordships whether that dress was in the smallest degree indecent or improper? I do not recollect that it was at all indecent.”

Sir William Gell's evidence to the same points would be found at pages 552, 560, and 561.

“The company had expected that something was to be seen at the opening of a certain door: after a long time the door did open, and there appeared two Neapolitan ladies, the Duchess of Civiella and the Countess of Derri; I think the Duke of Casarano with a trumpet—the Princess of Wales came down with a wreath of olive or ivy—of olive, I think, and placed it upon the head of a bust; the door opened, as it might be—so; the scene was shown, and the door closed in as much time as I do it, and no longer.

“Do you remember the particular dress of the Princess of Wales upon that occasion? I remember it perfectly well, it was a dress which I should say is best exemplified by the figure of the Townley Cariatides in the British Museum, or Mr. Hope's Minerva; it was meant to imitate one of those statues.

“Was there any thing indecent or indecorous in the style or nature of that dress? The whole world is capable of judging, those statues are very much draped, completely covered.”

He must again repeat that he had not himself seen those statues; but from the information of others, who had, he understood to be quite the reverse of completely draped. However that might be, the fact that Bergami had remained a considerable time alone with her Royal Highness alone on that evening was corroborated by the evidence of Sir

Wm. Gell, who spoke to her Royal Highness's absence for a considerable time from the company, and accounted for his recollecting it by the anxiety which they expressed for her return. The other occurrences at Naples to which De Mont had deposed were the occurrences at the Theatre San Carlos, and to Bergami's having been seen walking arm in arm with her Royal Highness upon the terrace. His Learned Friends had supposed those charges to have failed because he had carried them in his opening speech further than the proof warranted. The question, however, here was, did her Royal Highness go to the masquerade along with Bergami and De Mont, or did she not? De Mont's evidence went to prove that she did. Not that he meant to blame her Royal Highness for enjoying the amusement of a masquerade, or that he was so ignorant as to suppose that persons at a masquerade were not disguised: such an idea had never entered his mind, nor had such an expression ever passed his lips; but he did blame her for not taking along with her the ladies of her suite, for not being attended by Mr. Craven, or Sir William Gell, or Dr. Holland, who were there at the time.

Mr. Denman here interrupted the Attorney-General, and said, “How does this appear, and where?”

The Attorney-General.—He would show that from the evidence; but, before he proceeded to do so, he must assure his Learned Friends that he had no intention of stating any thing as being upon the evidence which was not actually there. He should despise himself, and should deem himself worthy of the contempt of others, if, in a case of so great importance, he voluntarily made any misstatement or misrepresentation of what had been deposed. It was his duty to recapitulate the nature, and to comment upon the tendency, of the evidence; and, in doing so, he declared before God that he would refrain from all comments which he did not believe to be just as well as necessary. What consideration ought to be attached to those comments it was for their Lordships, not for him, to decide; what he had to do was to make them boldly, manfully, and truly; and, therefore, should he accidentally misstate any thing, he should feel obliged to his Learned Friends if they would immediately set him right. The charge against her Majesty then was, not that she went to the masquerade, but that she went there secretly with Bergami and De Mont, instead of going there with her ladies and her suite. De Mont proved that to have been the case; she stated the dress in which her Royal Highness was arrayed, the manner in which she went, and also the manner in which she was received; and was he, after the description which had been given of that reception, to be told that there was nothing improper or injurious in

her going there secretly, on a dark night, in a hired fiacre, and without the attendants due to her rank and station? Now what had Dr. Holland said on this occasion, when interrogated on the subject, at p. 611? He would read his examination to their Lordships:—

“Were you ever at a masquerade at the Theatre St. Carlos when her Royal Highness was there? I was.

“With whom did her Royal Highness go there? I was not aware till the following morning that her Royal Highness had been there.

“Did you remain there during the whole, or nearly the whole of the performance? Only about an hour, as far as I can recollect; certainly a short time.

“Are you to be understood that you do not know with whom her Royal Highness went to the theatre that evening? I do not.”

Mr. Denman asked the Attorney-General how he knew that this was the same night with that of which De Mont had been speaking?

The Attorney-General. — His Learned Friend had asked how he knew this to be the same night. The fact was evident enough from the whole of the evidence: but if any doubt existed on that point, why did not his Learned Friend ask Dr. Holland a few questions, to settle it at once? Dr. Holland, therefore, was not only not with her Majesty, but was ignorant of her presence. But did it appear that her Royal Highness had gone upon any other occasion to a masked ball at the theatre San Carlos? If she had, why had it not been put in evidence? Why had not Mr. Keppel Craven, why had not Sir W. Gell, been called to prove that they were then in attendance? Why, but because she had never been at the theatre on any other night, because on that particular evening she went there, not in company with any of her gentlemen or ladies, but with her inferior domestics, De Mont and Bergami. Why had Bergami, the courier Bergami, who had not been in her service more than three or four weeks, been selected to attend her? Why had not she taken for her companion Hieronymus or Sicard, or any of her other servants, who, from long experience, were more entitled to her confidence? Could their Lordships, when they recollected these circumstances, derive any other inference from them than this—that an adulterous intercourse had commenced between her Royal Highness and this Bergami at Naples, and had been continued till the very last moment that he remained with her at St. Omer's? De Mont next stated, in page 255, that she had seen Bergami and her Royal Highness walking arm in arm upon a terrace in the garden of her Royal Highness at Naples. How had this been contradicted? By the most extraordinary evidence that he had

ever heard of. Sir Wm. Gell and Mr. Craven were called to contradict her. At page 557 Sir W. Gell deposed that he had seen her Royal Highness and Bergami walking together on a terrace, Bergami being only 5 feet behind her. But the most important testimony was that given by Mr. Craven, at page 540, who, having seen the same circumstance, said, that, as he knew that there was a spy, from England at that time in Naples, he thought it necessary to caution her Royal Highness with regard to any outward appearances that might be misconstrued. What would their Lordships think when they heard that Mr. Keppel Craven was so sensitive for her Royal Highness's character as to caution her on the necessity of avoiding all misconstruction, and, therefore, against walking out with Bergami? What would they think when they found that he again assumed his character of her Royal Highness's monitor, at the same time that he confessed that he had not seen any thing improper in her conduct? She was walking upon a terrace, a servant was behind her, and both were visible to all in the neighbourhood; was there any thing improper in that? If there was not, where was the necessity for his caution? But the real cause of the caution was, that she was attended by Bergami; and that he suspected an improper intimacy to subsist between them. How, too, was it that Bergami had so particularly attracted the attention of Lord Landaff, unless for the same reason, unless something had come to his knowledge respecting the occurrence at the theatre of San Carlos, or from the common rumours which the conduct of her Royal Highness had excited in the neighbourhood? If something suspicious had not been observed in her Royal Highness's behaviour, Mr. K. Craven would never have dared to insult her by the caution which he had offered; but having given her that caution, it became their Lordships to bear in mind, and to see how they could reconcile it with her Royal Highness's subsequent conduct.—There was another charge, supported by the evidence of Majochi, to which he should now call their Lordship's attention. The facts which Majochi had proved were these:—that Bergami having received a kick from a horse was confined to his own room, between which and that of her Royal Highness there was a secret communication; that in consequence of Bergami's accident, he (Majochi) was directed to sleep, and did sleep for five or six nights, on a sofa in an adjoining cabinet, that on two different nights he observed her Royal Highness pass from the corridor through the cabinet into Bergami's room about midnight; that on one occasion she stayed there 15 minutes, that on the another she stayed there rather more, and that then she walked back into her own chamber.—Such were the facts proved to their Lord-



ships; but they (the counsel for the bill) had been asked, with an air of triumph, was it likely when there was another passage by which her Royal Highness might have obtained access to Bergami's room, without going through the cabinet in which Majochi was placed, that she would prefer to go by that passage which was sure to lead to the detection of her guilt? But how did this stand?—Was not that other passage the common corridor into which the doors of Doctor Holland, Hieronymus, and William Austin, opened? Was it not the passage which was frequented by the greater part of the family, both when they were going to their bed-rooms and when they were going to the water-closet, which it had been proved was in it? Besides, had not Majochi been placed in that cabinet by Bergami himself? and was he not also a man who had been introduced into her Royal Highness's family by Bergami himself? Whether adultery took place that night or not, he cared not. This was satisfactory proof that adultery, if not committed on that night, had previously taken place, because no woman who had not had a previous illicit intercourse with that man would have ventured to take such a step—would have ventured to go into his room while he was in bed. But he submitted that Majochi had proved what showed that an illicit intercourse was going on then. It was said, however, that Majochi was contradicted here by Dr. Holland. Majochi said he saw the Princess in Bergami's room during his illness, and he wished to call their Lordships' attention to the manner in which Dr. Holland gave his evidence on this subject, at page 618.

"Do you recollect the Princess coming into Bergami's bed-room at the time you were dressing his foot, during his illness? Certainly she did not."

"Do you recollect the Princess coming into Bergami's bed-room during any part of that illness? To my knowledge, never."

Their Lordships would observe that Dr. Holland would not swear positively that her Majesty never went into Bergami's bed-room. Whether it was while Dr. Holland was dressing Bergami's foot or not, he cared not: but he contended that there was here no contradiction given to Majochi, for Dr. Holland only said, "never to his knowledge," and it might have happened without his knowledge. Here their Lordships had the positive recollection of Majochi, and only the equivocal recollection of Dr. Holland, and that was not a ground on which this testimony was to be cut down. This evidence of Majochi was consistent with the other parts of the case, and accorded with the testimony given on the other side; for the fact that the Princess was in the habit of going to the rooms of her servants, was a presump-

tion that this was true. It rested undoubtedly on the testimony of Majochi, though coupled with other evidence; and he submitted that it was probable her Majesty, carried away by her passion for this man, should have visited him in the way said by Majochi. He had now gone through the facts deposed to at Naples, and had shown how, far from being contradicted by his Learned Friends, they were corroborated by other parts of the case. At Naples her Majesty was left by most of her suit, by Sir Wm. Gell by the Hon. Keppel Craven, and by some of the females who had accompanied her from England. She proceeded from Naples to Rome and came to Genoa; and here he would call their Lordships' attention to the evidence of Lady Charlotte Lindsay. It had been said by his Learned Friends on the other side, that all the proofs of improper familiarities had failed, and that no acts of familiarity had been established between her Majesty and Bergami, different from those which took place with the other persons of her suite. But there his Learned Friends had forgot what was said by Lady Charlotte Lindsay, on her cross-examination, at pages 519, 520. But, before he came to that fact, let him call their Lordships' attention to what she stated at page 515, because their Lordships would find, from that, that at Naples Bergami had undoubtedly been selected to wait on her Majesty not only in the house, but when she walked abroad. Bergami was the favourite selected on all occasions. If she dined, Bergami dined with her. If she walked Bergami was taken with her, instead of Lady Charlotte Lindsay. So it was, that, shortly after her arrival at Naples, he was selected on all occasions as her favourite attendant. But on the journey either from Rome to Civita Vecchia, or from Naples to Rome—it was of no consequence which—their Lordships would find this singular evidence by Lady Charlotte Lindsay, pages 519, 520:—

"Does your Ladyship recollect, upon the former part of the journey, Bergami coming up to the window of the carriage, and addressing her Royal Highness, saying, '*a boire Madame?*' I perfectly recollect his coming up to the carriage, but it was after he was called. We had provisions in the carriage, and her Royal Highness gave him some of the provisions out of the carriage, and something to drink."

"Has your Ladyship a distinct recollection that it was after he was called? I think it certainly was after he was called."

"Is there any circumstance that enables your Ladyship to pronounce with certainty as to that? No, but merely because it was more natural that he should not come till he was called to have some provisions given to him."

Was that, he would ask their Lordships,



peared in the public newspapers. (One of the Learned Attorney-General's learned colleagues—the Solicitor-General, we believe whispered to him, “one, one, of the public papers.”) He meant one of the public newspapers in particular. He would say that things had been published from day to day, during this trial, which their Lordships, perhaps, might overlook, but which, he said, were a disgrace to the country, and to those who were engaged in supporting the cause of her Majesty. These infamous papers had the audacity to publish things which they could not presume to think would have any influence on their Lordships' judgment, but which were calculated to influence the minds of persons out of doors. He was entitled then to say, that Bianchi's evidence was true, for no contradiction had been offered to the evidence, to the facts which that witness had stated. Could their Lordships rely on any testimony better than that of this uncontradicted, unimpeached witness? Vassali had been at Venice, and had brought over from thence some of the witnesses that had been brought before their Lordships; but he had been able to get none to contradict this fact; it stood unimpeached. The Learned Gentleman then read the following evidence in continuation:—

“Did you see the Princess and Bergami together after the rest of the company had left the room on that day?—I did.

“What passed between them when you saw them together?—She, after having got up, took the chain from her own neck, and put it round the neck of the courier; the courier afterwards took it from his own neck and put it round her neck; and then he took her by the hand, and accompanied her into the room where they went to drink coffee.

“Did they go out of the room together? Yes, together; but Bergami afterwards left the room to go to dinner.

“Did you observe any thing more pass between them than what you have mentioned? I did not.

“After the chain had been put the second time upon the Princess's neck, did they go immediately, or did they stop a little longer in the room? They went immediately.”

And yet they were told that no improper familiarity took place between her Majesty and Bergami. Perhaps he was forestalling what belonged more properly to another part of the case; but he would remark, at present, that, in the presence of Dr. Holland, Lady C. Lindsay, Sir Wm. Gell, and others of her suite, her Majesty would no doubt be guarded in her conduct towards Bergami.—But, after the hint which had been given to her Majesty by Mr. Craven, was it wonderful that these persons should have seen nothing

improper? But this important fact at Venice, he maintained, stood uncontradicted, and confirmed by the want of contradiction. In the course of that tour, Dr. Holland had quitted her Royal Highness, and no English person remained in her service but Mr. Hownam, who had been patronized by her, who had been promoted by her, and who had been under great obligations to her, in the course of this journey De Mont stated that, at Bellinzona, Bergami, who had travelled with Hieronymus as courier, sat at table with her Royal Highness. Mr. Hownam confirmed this: though his memory was so frail on many points, he recollected that Bergami then sat at table with her Royal Highness. His evidence would be found at page 725:—

“Did not Bergami accompany her Royal Highness upon that occasion as a courier? He was dressed in a courier's dress, but he then rode in a carriage.

“Was it not with Hieronymus? I think it was.

“In the course of that tour, did not Bergami dine with her Royal Highness at Bellinzona? He dined with her Royal Highness: I think it was at Bellinzona.

Who dined with her Royal Highness besides? There was the Professor Conféglia, who accompanied her Royal Highness; and a man who was living in the mountains—I do not know what he was.

“Was not Bergami at the time dressed as a courier? He was.

“Did you dine with her Royal Highness upon that occasion? I did.

“And remained at the table during the whole of dinner? I did.

“You have said that he did not dine regularly at that time with her Royal Highness: did he after that time occasionally dine with her in his courier's dress. Never afterwards in his courier's dress.”

Yet, to the question but one after this, Mr. Hownam replied—

“I think he did dine with her Royal Highness at Lugano. That was on the return from the journey to Mount St. Gothard.

“Was he not then courier, as he was upon former occasions, when he dined with her Royal Highness? It was upon the same journey.

“Do you remember any other place in the course of that journey, in which they dined together? No, I do not.

“At the Devil's-bridge did they dine together? That was on the same journey; I rather think they did.

“On those occasions, on the same journey on which Bergami dined with her Royal Highness, was he not in the dress of a courier? He was.”

Here then, their Lordships found it proved, by the witness of his Learned Friends, that

Lordships to mark the difference between evidence that might be contradicted by persons still in her Majesty's service, and evidence of a different description. Two concurrent witnesses might perhaps be in a conspiracy to give false testimony, and could not be contradicted: but when the fact was sworn to have taken place in the presence of another person who might be produced, then, he said, the evidence was confirmed by the absence of that person. If that other person were called, and contradicted the fact, then not only that circumstance was negatived, but the other parts of the same witness's testimony were discredited. Yet here, while the Queen was anxious to call every person who could clear away the charges, his Learned Friends, who no doubt had exercised a sound discretion, declined to call Louis Bergami or Camera. Thus, then, it was sworn, that her Majesty, removed from the sight of her other attendants, was seen breakfasting alone with this courier, who had not yet distinguished himself in her service. From Genoa her Majesty proceeded to Milan, and there she was left at last without any English female attendant. Lady C. Lindsay, Lady C. Campbell, and Lady E. Forbes, had all left her, and she had no female of distinction about her. Within two days after the departure of Lady C. Campbell, the Countess of Oldi was introduced as her maid of honour. Who was she? what were her qualifications for that office?—No informations had been given on these points. But she was the sister of Bergami; and when this man had been distinguished by so many marks of her Majesty's favour, was there any thing discreditable in introducing this female into her service? If not, why disguise it? why conceal it from the family? Dr. Holland was present, and was any thing more natural than that her Majesty should have said to him, "I have been left by all my English female attendants, I am without a person of rank, and I want a companion; but I am not really able to procure another English lady at present; I know not any Italian lady of rank; I have applied to Mrs. Falconet, who declines entering my service, and therefore I have taken the Countess of Oldi; she is well educated, and has moved in the higher sphere of society, but I must tell you at the same time, that she is the sister of Bergami, the courier; I feel awkward at her sitting at my table, but I have been obliged to apply to her, here she is, I introduce her to you?" But it appeared that Dr. Holland left Milan, and knew nothing of her. What kind of Italian she spoke their Lordships had heard, and French it did not appear that she could speak at all. Her Royal Highness though spoke nothing but French. Thus, then, this companion was taken for the sake of society, with whom her Royal Highness could keep up no intercourse whatever. He submitted that this was a strong presumption

of what was taking place. Had her Royal Highness, he asked, ever stated to Doctor Holland who the Countess of Oldi was? Nay, when Lord Guilford was dining with her Majesty, the Countess of Oldi was not introduced. Her Majesty never said, "Here's Mr. Bergami, my chamberlain; and this is the Countess Oldi, his sister." Why this concealment? He submitted that this circumstance spoke more than any thing else to show that an illicit intercourse existed; and in consequence of it, the sister of Bergami was chosen, who was not likely to mark with a scrutinizing eye what was passing between them. No, it was not fit that any English lady, or that any Italian lady of distinction should be about her Majesty then; it was necessary that the sister of Bergami should be introduced as maid of honour, though, at the same time, his other sister and his mother were not introduced to her Majesty's table. No, Bergami was to suffer the mortification—for a mortification it must have been—to see his mother in the house, and not seated at the same table with himself. Before he quitted this part of the case he would call their Lordships attention to a fact which, in order of time, came in here, and which had not even received a comment, far less an answer, from the other side. The fact he alluded to was stated to have taken place at Venice (p. 213), by a witness whose testimony was not impeached, and whose character was not even attempted to be shaken. But his learned friends had passed over all that occurred from quitting Genoa till the embarkation on board the polacre at Sicily. His learned friends said, "We think it not worth noticing;" and, undoubtedly, they were right not to make any remark on it. Bianchi stated (page 214) that a gold chain was purchased by her Majesty, and so on, as follows:—

"Did the Princess purchase any thing from the jeweller?—She bought a Venetian chain; a chain made at Venice, which is called a manina of gold.

"Was that during dinner time, or before or after dinner?—The jeweller came at the end of the dinner, when all the company were getting up from dinner."

The company had been called; Dr. Holland, who was present had been called; Mr. Hownam had been called, and Vassali, he believed, was also there; but not a question had been put on the subject of this chain by his Learned Friends. His Learned Friends had fixed Mr. Hownam, and he the (the Attorney General) had fixed Dr. Holland, as having been present; but not a question on the subject had been put by his Learned Friends. Here then was a fact resting on the evidence of a witness on whose character there had not even been an attempt to throw any imputation. He mentioned with contempt the statements that ap-

and they were seen in a boat, and found with her the very person whom a few months before he had seen waiting at table. Did her Royal Highness account to his Lordship for this change? He (the Attorney General) had already remarked, that her Royal Highness had not mentioned the Countess Oldi as the sister of Bergami; he now asked whether her Royal Highness explained to Lord Gifford that Bergami was then promoted, in consequence of his services at Genoa—in consequence of his services against Ompteda, of whom they had heard so much—in consequence of a conspiracy discovered at the Villa d'Este, and of attempts of suborners of calumny and perjury?—No, all was passed over in silence; they dined together afterwards, but no explanation was given. Could we doubt that the reports and rumours operated more on his Lordship's mind in consequence of what he had thus seen? In deference to the Noble Lord he would make no harsh remarks on his Lordship's evidence, or on his want of recollection. He would leave that to their Lordships. Could they doubt that, when his Lordship discovered that Bergami was promoted—when he discovered that the Countess Oldi was his sister—could they doubt that these discoveries operated on his Lordship's mind to advise his sister not to rejoin her Royal Highness—to say that it would not be creditable for her to do so? And their Lordships knew that Lady Charlotte Lindsay acted on that advice. They were told that, in the cross examination of that lady, they had violated private confidence, and inquired into facts which ought not to be inquired into. But if they had thought proper on the other side to call a witness who was to be the main stay of their case, and if he had heard of declarations made on other occasions by that witness, contrary to the object of her evidence, was he not, when truth was the object, was he not to inquire into those declarations, and would he not have been unjustified if he had not dragged them to light? Private confidence! perhaps he might show breaches of private confidence on the other side; but if communications were made to him of the nature he had alluded to, he asked whether he would have discharged his duty if, out of delicacy to the character and station of the witness, he had withheld questions which he thought important? From the rank and station of Lady Charlotte Lindsay she was thought an important witness for the Queen; he owed it therefore as a duty to their Lordships, but more as a duty to himself, who had to support this case at their bar—to their Lordships and to himself he felt it to be his bounden duty to inquire whether, though Lady Charlotte Lindsay had not seen with her own eyes any thing improper, the impression on her mind was not such as to show whether

she was a witness to be relied on? he meant as to the facts. Their Lordships would recollect what the evidence of Lady Charlotte Lindsay was, as to her Royal Highness and Bergami walking arm in arm. They had heard the powerful eloquence of Mr. Brougham against Italian witnesses. How powerful would his eloquence have been if he had to deal with these English witnesses? The witnesses were all Italians; they were hired for immense sums; they were perjured, suborned, and well paid for falsehoods; and then he gave quotations from Cicero to embellish and adorn his otherwise extraordinary speech—How would he have dealt with these English witnesses? Yet, if it were not a waste of time he (the Attorney-General) would venture to produce from the English witnesses, as many *non miror* as even Theodore Majocchi used. He now proceeded to another part of the evidence. Her Royal Highness went on board the *Leviathan*, Captain Briggs.

The EARL of LIVERPOOL again suggested that this would be a convenient time for a short pause. (*Hear, hear.*)

The Attorney-General bowed, and was about to retire.

#### BARON OMPTEDA.

Mr. Denman.—I request that your Lordships will wait a moment, that Mr. Brougham may be sent for, as he has a most important application to make to your Lordships on a matter that has occurred within a few minutes.

Mr. Brougham (who at that instant hurried up to the bar.)—My Lords, I should hold myself guilty of a dereliction of duty if I delayed for one moment longer than was necessary, while my Learned Friend was engaged in addressing you, to communicate what has come to my hands a few minutes since, when my Learned Friend was actually engaged, and could not be interrupted without impropriety. I have in my hand letters, in the hand writing of Ompteda, and signed "*Ompteda, Ministre d'Honneur*," proving that he was, at the time of writing the letters, in correspondence with the household of her Majesty, and attempting to seduce her Majesty's servants; letting out, too, that he was endeavouring to seduce (we understood him to say) Mariette De Mont. I am ready to prove the hand-writing.

The Attorney-General.—I object to that evidence in the first place; and, in the next place, I object that never was there an application of such a nature made at such a period.

The EARL of LIVERPOOL said, that whether or not this was evidence, or ought to be received, this was not the stage for receiving it.

Mr. Brougham.—My Lords, if I had remained silent for one instant after I had

received such a communication, I should be totally unjustifiable. It proves that I was right in my suspicions.

LORD HOLLAND said he did not rise to offer any motion on the subject; but the Attorney-General for the Queen certainly did right in stating at once that such documents had come into his hands, whether this was or was not the time for taking them into consideration. They had often heard it said that it had been asserted, but never offered to be proved, that Ompteda had made attempts of this nature. Now it was offered to be proved. It had been said that the time might arrive when the conduct of Ompteda and the Milan Commissioners could be inquired into, but it was not to-day. Some time or other the period for that inquiry must arrive. But he only rose now to say, that not a moment ought to have been lost in making the communication which had just been made by the Queen's Attorney-General.

The EARL of LIVERPOOL said he imputed no blame whatever to the Counsel at the bar; he only objected to any inquiry into the subject in the middle of the speech of the Attorney-General.

The MARQUIS of LANSDOWN did not mean to contend that this was the time to go into the inquiry; but he did think that the Queen's Attorney General was bound in justice to the House, and to the King's Attorney General, if he obtained any knowledge of the nature alluded to, to tender that knowledge to the House and to the Attorney General for the Crown, in order that, if he wished to possess it before he replied, he might possess it. He understood the Attorney General declined to have this knowledge, but if he declined, it would be for their Lordships hereafter to take it into consideration. But the Attorney-General for the Queen had done no more than his duty. He was taken by surprise as all their Lordships were; he therefore would take time before he gave his opinion upon the subject.

The EARL of DONOUGHMORE said he could not state how entirely he differed from his Noble Friend. After the conclusion of the evidence on both sides, whether there ever was such an application made, he would not take upon himself to say, but he would take upon himself to say that this was not the time to make it. He could not have supposed that such a statement could have been made at such a time. If it were the most material and the most important discovery, he could not suppose that the Counsel for the Queen, without meaning any offence, would have obtruded it so on their Lordships. He repressed the feeling which rose so strongly on this occasion.

The LORD CHANCELLOR said that Counsel were permitted to withdraw for a short time. (Here the Attorney General left

the bar.) Upon the subject of the communication he would say nothing; and he did not sit there to give judgment upon the conduct of Counsel. The communication was one thing, and the manner of making it was another thing. This was not the time for entering into the consideration of the subject.

The House then suspended proceedings for half an hour.

At 85 minutes after one the Counsel returned to the bar, and their Lordships having taken their places,

The Attorney-General resumed. It was not, he said, his intention to advert to the course of observation which he was pursuing when he last had the honour of addressing their Lordships, and which was called forth by one of the most extraordinary proceedings that had ever taken place in a court of justice—a proposition wholly unforeseen having been made by his Learned Friends in the middle of his speech. In another part of the observations he intended to make he should have occasion to notice that circumstance; but he would now proceed with the line of argument which had been interrupted, when, by the indulgence of their Lordships, leave was given him to retire. He was then coming to that period when her Royal Highness embarked on board the *Leviathan*, at Genoa; and in coming to that part of the case, he could not but remind their Lordships of the evidence given by De Mont and Majochi, respecting the disposition of the rooms at Genoa, at Milan, and at the various places to which she and her suite went, after her Royal Highness's first arrival at Naples. He called their Lordships' recollection to that portion of the case, in order to show that the evidence of this fact was not contradicted by any testimony on the other side. In one instance, and in one instance only, a contradiction was attempted, as to a staircase at the Villa d'Este. Majochi stated that there was what he called a secret staircase, near her Royal Highness's room, not generally used by the family, to which a contradiction was attempted to be given by Mr. Hownam, who merely stated that it was a staircase leading to the apartments of himself and others, but which was only made use of by him. He directed their Lordship's notice to this part of the case, because they would find that the same system was pursued when her Royal Highness was on board the *Leviathan*. Capt. Briggs had previously made a certain arrangement and disposition of the vessel, placing her Royal Highness and the Countess Oldi in two cabins, inside of the dining-room, and her female servant (the situation which would naturally occur to any person) in a room adjoining that of her Royal Highness, and having an internal communication with her cabin. Her Royal Highness, however,



disapproved of that arrangement. She preferred that which had been her usual practice, to have Bergami, her equerry, in the room adjoining her own, and, with that object, he was removed to the cabin previously occupied by the servant. This fact their Lordships would find in the evidence of Capt. Briggs, page 160, and the following page. The former part of his evidence merely related to his having seen her Royal Highness and her suite embarking on board the *Leviathan*, and a recapitulation of the names of some of the persons of whom that suite was composed. But, in the page to which he had referred, Capt. Briggs described the appropriation of the cabins which he had made, and stated that this disposition was altered by the command of her Royal Highness. Beyond this their Lordships would recollect that it appeared, from the first examination of Capt. Briggs at their bar, that it was an alteration in which Mr. Hownam himself concurred with her Royal Highness; and Capt. Briggs, at a subsequent period, also spoke to part of a conversation he had held with Mr. Hownam, which that individual, when cross-examined at their Lordships' bar, seemed to have quite forgotten had even taken place. Why did he remark on this alteration of the cabins so particularly? Because it was a prominent part of that system, of that habit, which pervaded the whole of her Royal Highness's conduct with respect to this case. What occasion was there for placing Bergami adjoining her Royal Highness's cabin in the *Leviathan*? Would it not have been equally safe for her Royal Highness to have had her female servant immediately adjoining her cabin and Bergami at a further distance? Was there any apprehension in the mind of the Royal Highness as to any thing occurring on board the *Leviathan* that rendered this alteration necessary? No; but the favoured Bergami was selected on this, as on all other occasions, to occupy a room close to that occupied by her Royal Highness; and, though the internal communication between the two cabins was shut up, yet their Lordships would find that the door of Bergami's cabin opened almost immediately opposite to the door of her Royal Highness's room, and afforded that facility, that easy communication, which might be traced all along, between the sleeping-apartment of her Royal Highness and that in which Bergami reposed. He knew that, on the cross-examination, and the examination of their Lordships, a strict inquiry was made, to discover how far Bergami could find his way into the Princess's room without detection. He would not make any comment on that evidence; but he thought that it would be most easy for Bergami to accomplish that purpose, if he had chosen it, without the knowledge of Captain Briggs, or of any other person on board. He knew that

Captain Briggs slept in the dining-room, in a part that was boarded off. But he had stated that, though he was liable to be awaked at night by individuals coming down for orders from the quarter-deck, yet a person who wished to go to the room of her Royal Highness might pass by his apartment, without being observed or interrupted, and persons might pass into his room for orders without seeing Bergami. When they considered this part of the case, it was essential to recollect that the alteration affording the facility he had stated was made by the direction of her Royal Highness. Another point to which Captain Briggs deposed was her Royal Highness being in the habit of taking Bergami's arm while walking the deck, which afforded additional proof of the familiarity that subsisted between them. Her Royal Highness proceeded to Palermo, and then went to Sicily; and it was very material to attend to what occurred at the latter place. In page 18 of Majocchi's evidence, and in page 276 of De Mont's evidence, a statement of the familiarities, the indecent familiarities, which took place between her Royal Highness and Bergami at Messina, would be found by their Lordships. It was supposed by his Learned Friends that there was some variance between the testimony of Majocchi and De Mont as to what took place at Messina. But there was no evidence that these two witnesses were speaking of the same period; there was no evidence that they were deposing to the same facts, or to the same expressions that were used on that occasion—expressions which no female would have uttered to any person, more especially to a servant, unless she was in habits of the most intimate intercourse with him. Her Royal Highness in speaking to Bergami, used the words "*mon cœur*," "*mon ami*," which no woman would have done, in addressing her servant, unless that familiarity had taken place between them which was imputed to her Royal Highness. The next important fact—and it was a most important one—to which he would advert, was the circumstance that took place at Catania. A fact was spoken to, by De Mont, as having taken place there, which, if true, proved, beyond the possibility of doubt, that an adulterous intercourse had taken place at Catania between her Royal Highness and Bergami. What were the facts which she related? It appeared that, in consequence of some illness which Bergami suffered at Catania, a change of his sleeping-apartment took place, and he occupied a room that had been previously occupied by the Countess of Oldi. Between that room and the room occupied by her Royal Highness there was another sleeping-apartment, appropriated to the witness and her sister. It followed, therefore, that the communication between the Princess's room and the chamber to which Bergami was removed was that in which De

Mont and her sister slept. In consequence of this change the Countess of Oldi removed from the room which she had usually occupied to that in which her Royal Highness slept with the little Victorine. De Mont stated that she heard the door of her Royal Highness's room open at night; but she also stated this particular fact, to which he called their Lordships' especial attention, namely, that one morning, having remained in her room rather later than usual, she saw the door of the room in which Bergami reposed open and her Royal Highness come out of that room in the dress she usually wore when in bed, and the pillows on which she commonly reposed under her arm. They were told that De Mont was a witness not worthy of credit. Much had been said by his Learned Friends, and many eloquent dissertations had been made on the weight and credit that ought to be given to the declaration of discarded servants; and still more had been said with respect to the letter written by De Mont to her Royal Highness, and that which she had addressed to her sister. He had supposed, from the Mass of argument which had been taken by his Learned Friends, that they were so satisfied in their own minds, or affected to be satisfied, that De Mont's evidence was no longer to be relied on, that they deemed it unnecessary to attempt any contradiction of it. How, then, was he astonished, when, at the close of his Learned Friends' case, notwithstanding the display of eloquence which they had bestowed on the character of this chambermaid—notwithstanding Mr. Brougham and Mr. Williams in the first instance, and Mr. Denman and Dr. Lushington afterwards, had endeavoured to show that her evidence was not to be credited in the slightest degree—after all the pains they had taken on this point, how was he astonished when he found that his Learned Friends, feeling, themselves, that they had failed in making the impression they wished—feeling that the ground on which they stood was so weak and untenable—called up their last witness, who was brought over at the very last moment of the case, and examined the night after her arrival, in order to contradict De Mont? Yes, a milliner from Morge, was produced to contradict De Mont on a collateral fact—a fact which they had already heard from Lieutenant Flynn, on whose evidence he would hereafter comment. So far did his Learned Friends doubt the effect of their observations on De Mont's evidence, that, as their last resort, at the last moment, when their case was about to be closed, they called this milliner from Morge, that she might depose to a conversation between her and De Mont, in April, 1818, in order to destroy her testimony by that contradiction. If he wanted any demonstration that his Learned Friends felt that her evidence was not shaken

by those letters, this circumstance afforded that demonstration. It was pitiable to think that, in an accusation brought against the Queen of England, a paltry intrigue should be introduced to overthrow the evidence of a witness. Not only was this done—not only was private confidence betrayed—but letters were actually intercepted to support the defence. What did those letters amount to? The first letter, from Rimini, contained an expression which satisfied his mind—he knew not whether it also satisfied the minds of their Lordships—that De Mont saw and observed the intimacy that subsisted between her Royal Highness and Bergami; that they lived together as man and wife; and that they acted conjointly at Pesaro. If their Lordships would look to the conclusion of the letter, page 384, they would find a passage, which, he could not help thinking, proved most strongly what De Mont really felt with respect to the connexion, the familiarity, and the intimate intercourse that subsisted between them. The passage was this—"I cannot sufficiently thank her Royal Highness and the Baron for their kindness in sending Ferdinand to accompany me; he has paid me all the attention and taken all the care of me imaginable. I know not how to acknowledge so many benefits." Here were the Baron and the Queen united together in the same sentence, as both concurring in this act of kindness to De Mont. He must say that this accidental expression, coupling the Baron with her Royal Highness, spoke to his mind demonstratively what had passed in the mind of De Mont, and what was the result of her observation on that which had occurred in her presence. But they were told that the other letter, written to her sister, under the circumstances which De Mont had described, clearly marked the hypocrisy of this woman, and rendered her unworthy of belief. Looking to all the circumstances of the case, the interception of letters particularly, he drew a different conclusion. When their Lordships remembered that De Mont's sister was still in the employ of her Royal Highness—when they recollected that that sister was dependent on her Royal Highness's bounty, and were apprized of the circumstances that letters were intercepted—was it not extremely necessary for De Mont to take care that nothing should appear in her letters tending to show that a suspicion existed in her mind as to her Royal Highness's conduct? De Mont, in her evidence (p. 351) explained the motives which induced her to write those letters. She particularly observed, "I have often had questions put to me in private conversations, and I have always avoided saying what took place in the house. This is the reason why I wrote that letter to my sister." Did not this show that she marked the conduct of Bergami and her Royal Highness? But, in April, 1818, it

seemed she was asked by the witness from Morge as to what had passed in the house of her Royal Highness. She then avoided, as she declared she had always done, a detail of what she knew had occurred there. The answers she had given to those interrogatories were explained by the reasons which she had alleged at their Lordship's bar, for writing those letters. Knowing that her sister still resided in the family, she took care to avoid saying any thing relative to the scenes she had witnessed in the house. Her letter from Rimini, this point being properly considered, contained nothing whatsoever hostile or contradictory to her evidence. She complimented her Royal Highness's various virtues; but she complimented them because she knew that her letter would be seen by her Royal Highness; and she was aware that, if she adopted a different course, her sister, who had no other present means of subsistence, would be deprived of her situation. He must here more particularly call their attention to that part of Mademoiselle De Mont's evidence, wherein she answered to the several questions which were put to her in the course of her cross-examination by his learned friends, who had tortured her with such inquiries as whether she had ever gone by the name of the Countess Columbiere; and whether she bore that name on her arrival in London. Yet, after conducting that cross-examination in this manner, his learned friends had not called one witness to support that case, which it must have been their object to make out. For what purpose did they adopt that mode of cross-examination, but to elicit from De Mont certain facts which might contradict her former testimony, and which they must have proposed to prove by witnesses. Now, such a case they had not proved. The sole witness called to the bar, for the purpose of that contradiction, was the woman Martigni, who was to depose to a conversation occurring three or four years ago, between herself and De Mont, but of which they had heard little or nothing till that moment. His Learned Friend, Mr. Williams, however, had failed to ask a single question, in the cross-examination, about Francini; and, ably as it was conducted, it had failed in its object, for no witness whatever had been called to support it. These facts, therefore, which had been deposed to by the witness called in support of the bill, derived a still stronger confirmation from the circumstance of no evidence having been produced on the other side against them. "Don't let me hear of Mariette," continued the Attorney-General. His Learned Friends had said, however, that they would not produce her. She was not called, and the points which she was to have disproved, therefore, remained uncontroverted. They had endeavoured to assign a reason for this omission. But there

was another witness, at any rate, whom they might have called; a witness whose omission it was not in their power satisfactorily to account for. He meant the Countess of Oldi. Here their Lordships would recollect that part of the evidence relative to the Countess's being in the room, and soothing the little child Victorine, who was described to have been crying there, in the absence of her foster-mother, the Princess. Surely this lady must have been able to depose to these circumstances: and why then was not she produced? For the best of all possible reasons she was not brought forward, because she would have confirmed the fact: because she could not contradict it. She would have confirmed it, and the whole defence as upon this part of the case must have failed. He trusted that he had now satisfied their Lordships entirely as to the testimony of De Mont, let them examine and sift it as far as possible; but he entreated them not to run away with that letter which she had written to the Queen, as destroying her credit. His Learned Friends did not think it had done so; they had attempted to effect the same purpose by other means, and they had failed. The most that De Mont said in that part of evidence was, that she did not recollect whether her sister was there or not. Indeed the amount of her deposition was this—that she rather thought her sister was there. He referred to page 282.

"At the time when her Royal Highness came through your room in the manner you have described, were you alone in that bed? I was.

"Was any other person in the room? As far as I can recollect my sister was in the same room with me.

"Do you recollect whether your sister was up in bed? My sister was up.

"When her Royal Highness first saw you in the morning, was she in the habit of saying any thing to you; how did she address you? She generally said to me, "Good morning."

"When you saw her upon that occasion, did she say any thing either to you or to your sister? She said nothing to me at all."

Here then was a fact upon which De Mont might be contradicted by these two witnesses—the sister of Bergami, the dame d'honneur to the Queen, and the sister of De Mont, the chambermaid in her service. Strange it was, that this Countess Oldi, whom the Count Vassali was sent for the purpose of meeting and escorting down to Dover, was in this country, that Mariette was in this country, and yet, that neither of them had been produced. The Princess now quitted Catania; before, however, he (the Attorney-General) quitted Catania, he must beg leave to remark upon one circumstance: it was at Catania or Augusta that honours were first bestowed on Bergami; as their Lordships would recollect, he was created a Knight of Malta,

and afterwards Baron de la Francina. Now in what situation Bergami previously was it was impossible to forget. He had been taken into the service of the Princess as a courier, at the stipend of 50 Napoleons a year. His Learned Friends had argued, and particularly Mr. Denman, that not much stress was to be laid upon this circumstance of a courier's obtaining such honours, because they might have been procured for money. But what means of that kind could Bergami possess, who was retained in the Princess's service at a salary of 50 Napoleons per annum? But it would be only trifling with their Lordship to detain them upon such miserable and shallow pretensions as these. These were the facts, of which his Learned Friends had said, that they had proved nothing; he contended that they went to prove every thing. He had now to advert to 284 and 286. That was evidence relative to certain portraits, painted by the direction of her Majesty for Bergami. There was one which represented her in the character of a Penitent Magdalen, and another in a Turkish dress. Why, it did seem to him a question that one should hardly put to a man of the most common understanding—in short, how would their Lordships account for this thing? Portraits of her Royal Highness given to a servant, living in habits of intercourse and communication with his mistress! For what purpose could such a present be made to a domestic? These things would not take place, except between those who were lovers, or between whom an intercourse of another description had already taken place. These, too, were facts, which his Learned Friends had most ingeniously, and with great adroitness he would confess, kept out of their Lordship's view in the course of their speeches, and throughout their defence. They passed over this, and endeavoured to conceal the fact of their doing so, by going on to another part. Oh, (said they) we will now show your Lordships the real truth of the polacre scene; that her Royal Highness slept under a tent, and that Bergami slept under that tent, too, at the same time; but, to be sure, here was nothing improper; it was absolutely impossible that any thing improper should have occurred, and so they hurried on. They did not like to stop to examine into the fact of the Princess's dining with Bergami in his courier's dress: they went at once from the polacre to the Villa d'Este; and thus, by cutting out the intermediate facts, they assumed that they had established their case. They said, "we have shown her to you, on board the polacre, an unstained and unsullied Princess." This was the way in which his Learned Friends had arrived at the case of the polacre, which they had advanced with so much delight. Mr. Brougham, indeed, by an accidental omission had omitted

to mention it. Mr. Williams acknowledged that the Learned Gentleman, in his eloquent speech, had forgotten to notice it, but he advanced it himself with the greatest boldness, and was followed in the same course by Mr. Denman and Dr. Lushington. When they (the counsel for the bill) had had occasion to advert to this case, and to point out the great impropriety of the thing, they were met by Mr. Brougham, who immediately said, "Oh, we know that; I have admitted all that before." He (the Attorney General) would now observe upon what took place on her Royal Highness's going on board the *Clorinde*, at Messina. She had been on board that ship before, upon the voyage from Civita Vecchia to Genoa, and and at that time Bergami had waited behind her chair. On her embarkation at Messina, Bergami had been previously advanced however. Captain Pechell, with an honourable feeling—a feeling that he (the Attorney General) thought reflected the greatest honour and credit upon that manly officer—said, "I cannot submit to the degradation of admitting that man to my table, who has formerly waited behind my chair," it being clear that this was passing in his mind; "I have seen nothing to warrant or justify it, and I will not tarnish the honour of a British officer by giving my sanction to condescensions which I see no just occasion for," and which that gallant officer must have been unable to account for, otherwise than upon some improper motive. He (the Attorney General) said, that what subsequently took place upon this subject, equally showed what was passing in the mind of her Royal Highness. Mr. Brougham had said, that the two English captains, Pechell and Briggs, were witnesses, in fact, for his case. How far Captain Briggs would be considered a witness for it, after his contradiction of Lieutenant Hownam, he (the Attorney General) did not know. Captain Pechell communicated to Captain Briggs, that his sole object in wishing to provide a separate table for her Royal Highness's suite, and at which Bergami was to dine, was the circumstance of Bergami's having formerly waited at his own table. Now let him ask what would have been the conduct of her Royal Highness on this occasion, if she had been really innocent, or if Bergami was justly entitled to those honours which she had bestowed upon him. In the mind of any honourable woman, she would have said to Capt. Pechell, "he is a man of honour, I have advanced him for his merit, and you will not degrade yourself by sitting with him at my table, where I am present. He has been a faithful servant to me, and I have chosen to advance him to rank and honour, because he has been so much better a one than those by whom I have been deceived, and who have attempted to betray me." In January, 1816, their Lord-



ships would remember the Princess permitted Bergami to dine at her table on board the *Clorinde*. In March, 1815, he had been a menial servant waiting at the same table. Such would have been the answer of the Princess of Wales; she would have said to Captain Pechell, with a becoming feeling of resentment, "by what you have done, you have been marking the conduct of the Princess of Wales with reprobation; I will take care to represent your conduct to your superiors." But what was her conduct? She paused—she hesitated. She felt, as she must have done, the indignity which would be offered to her favourite Bergami, if she thus permitted him to withdraw. She felt that at that time the causes of Captain Pechell's offer were so clear, that she thought proper to decline it altogether. After two or three days' pause, she did that which marked the consciousness of guilt—she withdrew altogether from the table of Captain Pechell, and contented herself with the company of the Countess Oldi and De Mont. But this point had been altogether omitted by the opposite counsel; they, for a good reason, did not wish to call their Lordships' attention to it; but he said that this fact carried the conviction to his mind of the fact of the intercourse between the Princess and Bergami. He now came to the arrangements adopted on board the *polacre*. At page 16, in the evidence of Gaetano Paturzo, and at 117-18, in that of Gargiulo, that was particularly described. An alteration was made in them at Tunis. That alteration was attempted to be accounted for by the circumstance of a doctor having been taken on board, from whence it became necessary to change the general arrangement of the rooms. Now mark, I pray you, my Lords, (continued the Learned Gentleman,) this circumstance. It was argued on the other side, but it was not true, that protection only was the Princess's object in placing Bergami so near her. At Tunis it seemed he was brought still nearer. He had lain, before, in a cabin outside of the dining-room. But at Tunis, notwithstanding all the arguments of his Learned Friends about protection, being the only object of the arrangement, although a sort of passage intervened between them, the beds of the Princess and Bergami were placed in such a position that they might see each other in bed. Be that as it might, or whatever was the design or meaning of their being so placed, it was clear that access was thus afforded, that a facility did exist—a facility, indeed, which his Learned Friend, Dr. Lushington, had admitted:—"I must admit," said he, "that facility of access was, in effect, thus afforded: but don't draw the inference because there was the facility—don't imagine that there was, therefore, the adulterous intercourse also." Bergami, then, could easily obtain entrance into her Royal Highness's cabin;

and it did so happen that another entrance door into that cabin was afterwards shut up, so that no person might accidentally intrude upon the privacy of the Princess and Bergami, after they had retired. What inference, then—when he said inference, meant conclusions—could a man draw from these facts? He could draw but one, namely, that Bergami was the man, who, all through this business, enjoyed that facility. When they slept at Tunis, and at Utica, their Lordships would see that the same dispositions were made. The counsel on the other side had inferred, that there was a contradiction between De Mont and Hownam, because at page 287, the former being asked—"Where did her Royal Highness lodge at Tunis, and where did she reside?"—replied, "At first in the British Consul's house at Tunis, afterwards in a palace belonging to the Bey at Tunis;" whereas Lieutenant Hownam, at page 704, said, that the house that they slept in was a palace belonging to the younger Bey, called the Sabella. Now what contradiction was there here affecting the credit of Hownam or De Mont upon this occasion. But Mr. Denman's position was, that De Mont had said it was a small country-house in which they resided at Utica. But he (the Attorney-General) thought that she elsewhere described it to be a small palace or country-house belonging to the Bey. At page 288 the House would find this evidence—

"Where did you reside at Utica?—In a small country-house.

"Do you know the situation of the apartments of her Royal Highness and of Bergami at Utica?" (After reading some further extracts from p. 288, the Learned Gentleman confessed he was in error, and that Mr. Denman was correct.) De Mont swore, what was a fact, however, that Bergami slept at Utica. To this there was no contradiction whatsoever. Mr. Hownam did not attempt to contradict her in any other part. Such trifling variations were of no consequence to the general credit of the evidence. It was confessed by Lieutenant Hownam, that they did sleep at a country-house, or palace, of the young Bey, at Utica. (p. 704.) On referring to this page we find the answer of Lieutenant Hownam to be—"at the palace of the younger prince. The house is called Sabella. His Learned Friend had said that nothing was proved against them at Zavouan: that it was only report. At page 289—

"Do you know what room was appropriated for the bed-room of Bergami? I do not recollect.

"Do you know where the Countess Oldi slept? In the same room where I slept.

"What room was there adjoining to the bed-room of her Royal Highness? The room in which her Royal Highness dined,

“Did you see the bed of her Royal Highness in the morning? Yes.

“Did it appear as if one person only had slept in it, or more than one? It seemed in much disorder.

“Can you say, according to your judgment, looking at the bed, whether one or two persons had slept in it? I cannot say that two persons had slept in the bed, but it rather appeared to me that two persons had slept in it rather than one.

“Why, so?—I have already told you, because it seemed in great disorder.”

He thought that this evidence proved that the fact charged did occur at Zavouan. It was proved by De Mont, who, it would be observed, in swearing, swore cautiously to it. “I cannot say, but it appeared to me.” Their Lordships were to look at the evidence together, and from the general complexion of the facts decide whether this case was proved or not. The Learned Gentleman then adverted to the occurrences at Ephesus, as detailed in the evidence of Majochi, (page 23) to which a supposed contradiction had been inferred in the evidence of Hownam (706.) (Here the Attorney-General contrasted considerable portions of the evidence of these individuals, for the purpose of explaining, what he termed, a seeming contradiction.)—At page 742 there was the evidence of Lieut. Hownam as to the Caffe Turque, at Ephesus; upon which the same species of contradiction had been endeavoured to be established, but the reality of which he denied. After the affair of Ephesus, he was not aware that anything particular occurred until they arrived at Aum, after they had gone from St. Jean d’Acre to Jerusalem. Now let their Lordships mark this part of the case, which was not only not contradicted, but in their argument and upon their evidence, admitted, he thought, by his Learned Friends. If the fact there deposed to was true, he said, it struck his mind as conclusive evidence of the Princess’s guilt? What was the case?—They travelled by night and slept by day. Her Royal Highness, after the fatigues of her journey, reposed in a tent erected for her. Outside that tent was another tent, and between them two persons were constantly placed to protect the Queen. They had heard a great deal of the necessity that there was of having persons to protect her; but on this occasion it should seem, that not satisfied with the protection of Majochi and Carlino (Bergami’s nephew), Bergami himself reposed under the same tent with the Princess, although it must be evident that of necessity such an arrangement must have exposed her Royal Highness to those indelicacies which were inseparable from travelling and long journeys. Good God! he had heard it said, “Oh, but she was much fatigued; she came in and reposed on a sofa, without taking off her clothes.” Why, if

she were so fatigued, as probably she was, would not a female attendant have been the best possible person to attend her? Would not the Countess of Oldi or De Mont, been properly selected for that purpose? She wanted no more attendants; she had these to spare; more than were outside of the tent. But at this time of day they were to be told that no suspicion of impropriety ought to be excited. Yet had they come to this day, in the 19th century, and it was gravely argued out of doors, that impropriety and guilt were not to be inferred in such a situation, because there was a possibility that there might be no intercourse. Their Lordships must repeal those bills of divorce which in so many instances they had passed. They must send forth to the world, hereafter, this doctrine, that there is no cause of suspicion or guilt in such a circumstance; and they must proclaim to the world, that for the future, this might be done with impunity: that Princesses might sleep with their menial servants under the same tent, without impropriety or guilt, because they were not undressed. Did his learned Friends know, (and if they did not, he would tell them,) that in those countries it was not the custom to repose without their clothes. If they did not know it, they might learn it from the volumes of travels with which Dr. Holland had amused and delighted the world. In vol. 1, p. 327, he said, “bed-chambers are not to be sought for in Greek or Turkish habitations. Their sofas are the places of repose for the higher classes, and the floors of their houses for the lower ranks \* \* \* ; neither men nor women take off more than a small part of their dress, &c.” The learned Gentleman proceeded to show, that it would have been as easy, and infinitely more proper, for the Countess Oldi, De Mont, or Marietti, to have slept under the tent. This arrangement would not have subjected her to those indelicacies, which he need not more nearly allude to, but which must take place under such circumstances. But was the fact so? Yes, it was proved by the evidence of Majochi, at pp. 24, 48, 91; by De Mont at p. 290. Here the Learned Gent. read several extracts from pp. 371, 323, 297, of the evidence (De Mont’s) and 48 and 91 (Majochi’s). Not a single person of any description was called to contradict the Princess’s sleeping under the tent with Bergami, and that sleeping, let their Lordships recollect, when no possible reason but one could be assigned for its occurrence. He should therefore say, that in this case, there was more than sufficient to establish the charge of adultery: if there were not such proof in this case, the House would do more than injustice in not admitting as proof that which they had often deemed proof in others. The fact of sleeping in the tent, if taken alone, was enough, but it became indisputably inconclusive when coupled with

so many other circumstances which led to the same inference. Good God! unless this were proof of adultery, how else was it to be proved? His Learned Friends had said, where was the proof of any thing but their sleeping under the same tent, as if it were nothing to talk of a man or woman sleeping under the same tent, unless they were actually proved to have slept undressed on the same bed. Was it to go forth to the females of this kingdom that such a thing could innocently take place? If so, then there was an end to all delicacy of female feeling, there was an end to the fine moral sentiment of the females of this empire. He must again repeat, that if enough to establish the fact of adultery were not already proved in this case, then there was no hope of ever being able to establish that fact in any other. If, then, the Aun case stood on this ground, what could be said of the conduct on board the polacre, which, though capable, if it had not occurred, of the fullest disproof, was yet by his Learned Friend, left wholly uncontradicted? What were the facts? Did not her Royal Highness and Bergami sleep under the same tent on the deck of the polacre from Jaffa to Capodanza, and for the space of nearly two months? The reason assigned for this was, forsooth, that some horses were below; that their noise, and the heat of the weather, compelled her Royal Highness to repose under a tent on the deck. But his Learned Friend (Mr. Denman) said that this did not deserve the name of a tent, that it was only the ship's awning—a sort of covering, loosely let down over her Royal Highness, and easily opened by any body on deck. What said their own witness, Lieutenant Flynn?—that it was fastened down to the ship's ring-bolt, on the deck. Majocchi, at page 90, and Gargiulo and Patuzzo, at pages 121 and 131, both prove how the tent stood; they prove all the particulars, not one of which stands contradicted by a tittle of evidence. So closely were his Learned Friends pressed, that when they found it was in vain to contradict this fact, they were compelled to attack the testimony of the captain and mate, on account of the remuneration given to them for coming to this country to give their evidence in the case. This remuneration was not larger than that usually given to foreign witnesses; in general, these persons required for their expenses large sums, and they were in the habit of receiving them. As proof of this, he need only refer to his learned friend's own female witness from Morge, in Switzerland; she admitted that she had received 70*l.* at the outset, and had had 100*l.* deposited at her bankers', and she hinted that she expected further remuneration. The house would doubtless recollect that the captain and mate, while absent, were perhaps liable to the loss of many important advantages arising

from the trade of their ship, which, if at home, they must certainly receive. Why fly to the remuneration they received, instead of contradicting their evidence, which if it could be contradicted, might have been so met at every step? They indeed proved not only the night scenes in the tent, but what was done there by day also. Both the captain and mate proved that while Bergami was reposing under the tent, and her Majesty hanging over him, Schiavini ordered the tent to be let down: this was done in broad day, and by the order of Schiavini. Where was Schiavini to contradict this. He was now living at Brandenburgh-house with her Majesty—he had been sent over to collect witnesses. Was he too without nerves for cross-examination, as Captain Flynn and the Ladies Oldi and Marietti were said to be? Was not Schiavini to be found with nerve enough to contradict the fact, that by his order the tent had been let down, under the circumstances he had named. Surely they might have produced him; he had as yet done nothing to forfeit their confidence, he had not corresponded with Baron Ompteda about forged keys and picking locks, and the detection of private correspondence. He is the person who is charged with letting down the tent. Now, when her Majesty's innocence was to be established as clear as the noon-day, where she took an attitude of challenging all inquiry; yet here was a most material and conclusive witness, were she innocent, and that witness, though on the spot, his learned friends did not venture to call. Count Vassali was indeed called to contradict the occurrence on the journey to Sinigaglia. There was confidence enough in the production of Vassali, but why not have ventured upon Schiavini, when his name was connected with so vital a fact? Why not also produce Carlino to contradict the fact that Bergami took the candle every night within the tent, and then put it out himself? It was ridiculous to talk of this sleeping of the Princess with Bergami for five or six weeks under the tent, and yet to say, that because the parties were not undressed, that therefore the innocence of the Princess remained clear. But what reason he would again ask for this indulgence to Bergami? Lieut. Hownam, indeed, did continue to find some reason for Bergami's sleeping under the tent; he said a seaman would have been better than a landsman to give assistance on such occasions. Schiavini, who was no seaman, he said would not do, and yet Bergami it appeared would, though there was no proof he had ever in his life been at sea before. There might have been a guard to protect the tent of her Royal Highness; there might have been every protection her apprehensions required for female safety; Lieut. Flynn always slept on deck, near the helm: but no, nothing

would do except Bergami's sleeping under the same tent, under circumstances which put an end to the feeling of female delicacy. But Bergami slept on a sofa, which sofa was three feet distant from her Royal Highness's bed, and there was no proof of either of the parties being undressed, for the Princess was seen early in the morning dressed, and Bergami in his gown:—"O, then," exclaimed his Learned Friends, "what proof was there of criminality in the Princess's conduct?"—If, he would answer, these facts, which put an end to all sense of female delicacy, did not furnish proof, then he knew not what was proof in such a case. Lieut. Hownam's "belief" upon the occasion was not his (the Attorney-General's) case, as his Learned Friends had called it; but it was an undeniable corroboration of the five witnesses whose testimony related to the same fact; it was the confirmation of the evidence of Gargullo, Paterzo, De Mont, Maioni, and another. Why not contradict these witnesses if they could be contradicted. The reason was obvious: Lieutenant Hownam told too much, Lieutenant Flynn broke down in his cross-examination, and they were afraid to call Schiavini, Carlini, Oldi, Hieronymus, Mariette, or the others who were all now at Brandenburgh-house. The polacre scene was established beyond all doubt; then did it not give sanction by its strong confirmation of the conduct of the parties to the other scenes in which they were represented to have participated? But there was one event upon which his Learned Friends, notwithstanding the minuteness of their details, were altogether silent, namely, the celebration on board the ship of the Saint's Day whose name Bergami bore. They said not one word of the regaling the crew on that day, nor of the shouts of "Long live St. Bartholomew! Long live the Princess! Long live the Chevalier!"—Did not this celebration of Bergami show the estimation in which Bergami was held by his Royal mistress? Where was the instance of such an act towards any of the other servants, and did it not in Bergami's case show the sentiment entertained for him by the Princess. All this could not have been omitted by his Learned Friends by accident; no, but they knew the fact could not be contradicted, nor the inference to which such a fact, coupled with the other circumstances, necessarily led. Then there was the bath scene. Lieutenant Hownam was asked, "Did the Princess bathe on board? Yes, she did." The bath is also carried, not into her dining-room, but into that cabin in which she slept. Lieutenant Flynn had been called to support the case, and to show that the tub could not have been placed in the cabin. It was hardly necessary to comment on the testimony of that unfortunate officer, upon whom the house would probably be of opinion that no reliance could be placed.—

"Yet what inference," exclaimed Mr. Denman, could be drawn from this young man's taking a paper from his pocket to assist his memory? and what did it signify, if, on cross-examination, he swore three different ways regarding the hand-writing of that paper? In fact, Lieutenant Flynn had deposed in the first instance that it was the hand-writing of Pasconani: but, by a fortunate accident, the counsel for the bill happened to have some letters of Schiavini in their possession, and on comparing the two, it was obvious that the paper was the hand-writing of that person. Accordingly the Solicitor-General had put it to Lieutenant Flynn whether it was not so. It came like a thunderbolt upon the witness, who never dreamt that the fact would be discovered.—Yet this Mr. Denman had contended, was of no importance. However to Lieut. Flynn this argument was not to apply; but still it was an accidental detection, and on account of it the Queen's counsel were afraid to produce any other witnesses. What fell from Mr. Brougham had reference to the statement of Sacchi regarding the tumult at Dover, a fact much more immaterial than the hand-writing of Schiavini; yet upon that fact the whole evidence, the whole of Sacchi, was to be destroyed. Lieutenant Flynn, however, was a witness on the other side, and accordingly he was an English sailor, and a British Lieutenant. He was so, and for this reason his honour ought to be as dear to him as his life; and for this reason the observation of Mr. Brougham was not applied to him, but to every Italian witness called in proof of the preamble. Lieut. Flynn had been asked over and over again as to the hand-writing of the paper, and he could not have entertained any doubt on the point; whether, therefore, his contradiction was wilful or by mistake, the house could give him no credence. Answers had been extorted from him by some of their Lordships which showed that he deserved no reliance, particularly with regard to the situation of the binnacle, and to the light which was thrown into the tent. All that he stated on this subject was too long to be recapitulated, and it must be fresh in the recollection of the house. He (the Attorney General) did not wish to injure his feelings more than was necessary, and would therefore only say that he had sworn most rashly. With regard to the light of the binnacle, he had been contradicted by Lieutenant Hownam, who found the tent quite dark, and so enclosed that it could not be opened but on the inside. This was also sworn to by Gargullo and Paterzo, who stated that it was shut by Bergami in such a way as to prevent all observation. If the fact, that Bergami and the Princess were in the tent, wanted confirmation, it was amply supplied by the proof, that off the coast of Candia, when the waves came over the



tent, the Princess was conducted from it below by Bergami. Mr. Hownam, indeed, said that it was Lieutenant Flynn; but this was incredible, because in the gale his attention would necessarily be directed to the management of the ship. It was, therefore, to be concluded, with the witnesses for the bill, that Bergami and the Princess descended the ladder together. To return to the bath—if De Mont and Majochi were believed, the Princess took the bath below; but this point was quite immaterial, the main fact being that Bergami was present at the time, and whether in the dining or sleeping cabin made no difference. He (the Attorney-General) knew not whether any woman would have endured the sight of any man on such an occasion: but sure he was that she would endure the sight of no man by whom her last favours had not been enjoyed. No woman of feeling or delicacy would have permitted it; but it was certain that Bergami was present when the Princess took the bath. The circumstances were too gross to be detailed; and, supposing it to be true, it proved the whole case. If it were false, it might have been contradicted by the Countess of Oldi and Marlette; but they had not been called, and the fact rested on the concurrent testimony of Gargiulo, Paturzo, De Mont and Majochi. The only witness who made it doubtful whether it took place in the dining-cabin was Lieut. Hownam, but he only stated his opinion. While upon this part of the case, so confirmed and strengthened, he wished to direct the attention of the House to the circumstances attending Majochi's evidence. He had heard with some surprise that Majochi and De Mont were not to be credited. The position was that Majochi, to certain questions, had replied that he did not recollect particular facts; but, if this rule were applied to the testimony against the Bill, it might be said of almost every witness that had been called. It would be remembered that Majochi was examined once, and that he was called up a second time on the receipt of certain information, which so opportunely and unexpectedly had arrived into the hands of the Queen's counsel during all stages of the proceeding. It was some intelligence from Gloucester, not obtained, however, until Gargiulo and Paturzo had been examined: then the case pressed, and the other side felt it necessary to make a diversion. Signor *non mi ricordo* was, therefore, brought up to have his testimony destroyed, and the House was amused, hour after hour, regarding a visit to Gloucester, Majochi's journey in a stage-coach, and conversations with this man and the other. His memory was tortured on the subject; for, though Mr. Brougham had applied that word to the cross-examinations of the Solicitor-General, it was equally applicable to his own. He supposed the other side would not confess

this: they would say that it was quite a pleasure to be cross-examined by Mr. Brougham, and that the witnesses felt nothing but delight while they were in his hands. Majochi did not seem to be of this opinion; for, when he was recalled to the bar, he certainly looked a little alarmed. A great deal had been said in the newspapers about the *attigues* of Lieutenant Flynn, but they were nothing compared with what Majochi had endured. He had been four times placed at the bar; the last time when the Solicitor-General was about to sum up. It was then thought that a diversion would be convenient, and Majochi was again produced to be cross-examined as to most important facts. The other side fancied that they had discovered that he had been at Carlton-house, and they questioned him as to his knowledge of Cavazzi, and others, for whom summonses were issued; and, in addition, various letters were produced. One supposed inconsistency was, that, though Majochi had sworn he could not write, he had kept a memorandum-book; but Mr. Brougham afterwards, with his wonted candour, admitted that the mistake arose from an error of the interpreter. The contradiction regarding which Majochi was called a fourth time related to the evidence of Carrington—a witness of spotless purity, perfect integrity, and entire veracity. He was to show some inconsistency in the evidence of poor *Non mi Ricordo*—a name that had been given to Majochi by a certain degree of artifice and ingenuity on the part of Mr. Brougham, who took care to put such questions as should receive that answer; though the House would not forget that the Queen's accomplished witness, Pomarti, had been specially instructed not to use that phrase. But what had become of Mrs. Hughes, whom Majochi was so desirous of marrying? What had become of Johnstone, Mrs. Adams, and the Cavazzi, the *violet de place*, who had shown Majochi London, and who were all summoned as if they were to be important witnesses? Nay, some of them had had an inspection of Majochi, to identify him: Mr. Johnstone had seen him, but, unluckily, he had not been brought forward to disprove what had been sworn. His Learned Friends felt the value of his testimony, and they thought they could divert the public attention from what *Non mi Ricordo* had sworn, though they well knew that his evidence must be tried by another test, whether he could or could not be contradicted. The last time Majochi was compelled to appear was with reference to the assertion of Carrington, that man of perfect honesty and character, and who, according to Mr. Denman, was "born a gentleman." If, however, the other side could point out any such contradictions in the testimony of *Non mi Ricordo* as he (the Attorney-General) could show in the evidence of Carrington, he

would consent to resign Majochi to his fate. He defied them to do it; but he would undertake to prove such contradictions and evasion on the part of Carrington as most satisfy every man that he was not to be believed. The main fact to which he was to depose was, that at Ruccanelli, in 1816, in the servants' hall, Majochi began to talk about the Baron Ompteda, and that on the following day he made an oration on the same subject. There was a trifling circumstance which still deserved attention in the evidence of Carrington, and it was this—he swore that Ruccanelli was only four miles, or about an hour's journey up hill, from Rome, and that it was nearer Rome than Frascati. Carlo Forti, another accomplished witness on the same side, said that it was twelve miles from Rome, and that Frascati was farther than Ruccanelli. The part of Carrington's examination to which he particularly alluded related to his services on board the *Poictiers*, Under Sir John Beresford. On page 591 their Lordships would find the following questions and answers:—

"Were you in any other ship in his Majesty's service than the *Poictiers*? No.

"Have you any certificate from Sir John Beresford of your services under his command? I had it, but I have it not now.

"Do you mean to say you have lost it? I have.

"But you are certain you received a certificate? I am.

"Were you rated midshipman on board the *Poictiers*? I was.

"How long? I do not know rightly how long; I suppose during the time I was there.

"What situation had you served in, before you were on board the *Poictiers* as a midshipman? I had been at sea in the merchant service when I was a boy; then I had been on land, and got my livelihood in the best way I could.

"You are to be understood that you were never in his Majesty's service before? No.

"What countryman are you? An Englishman.

"What part of England? Essex, near Colchester.

"Having stated that you had been in the merchant service previous to your going on board the *Poictiers*, are you to be understood to have joined that ship as a midshipman, capable of doing your immediate duty, or as a youngster? I went with Sir John Beresford on board the *Poictiers*.

"Do you mean that you entered as a youngster to learn your duty, or did you go upon the quarter-deck of that ship as a positively effective midshipman? I was not a very youngster. I did not go upon the quarter-deck for some time; but I understood I was to be a midshipman.

"Are you positively sure that from the time you joined the *Poictiers*, you were rated

midshipman? I am not certain whether I was rated at the time or not; I was rated at the time I left it, which I saw upon my ticket."

These questions were put to bring facts to his recollection, not like Mr. Brougham's to produce *Non mi ricordo* for the answer, and when Carrington did not at all expect that any contradiction to him could be given, and for some reason or other he disguised the truth. The Attorney-General apologized for detaining the house upon this point, but it was absolutely necessary to bring facts to their Lordships' recollection. (*Hear, hear.*) On page 693, Carrington was recalled, because he had left a distinct impression that he had served on board no other King's ship but the *Poictiers*, though he had been in the merchant service. Accordingly the following questions were put to him by a Noble Lord:—

"You stated to their Lordships, when you were examined by the Counsel who first examined you on Saturday last, that, previously to have been in the service of Sir Wm. Gell, you had served in the navy, and in the capacity of a midshipman? Yes, with Sir John Beresford.

"You also stated, in reply to a question which was put to you—Were you in any other ship in his Majesty's service than the *Poictiers*?—No.

"I understood that question to apply to my having been with Sir John Beresford as midshipman; I had been in other ships before.

"Another question was put to you: to which you gave this answer—you were asked what situation you had served in before you were on board the *Poictiers* as a midshipman? to which you answered, you had been at sea in the merchant service when a boy, that you had been on land, and had got your livelihood in the best way you could—I did; I understood the question to allude to my being with Sir John Beresford; I was in other ships before that.

"Is that last answer correct?—Yes.

"Then the very next question is as follows—You are to be understood that you were never in his Majesty's service before? to which you answered—No.

"I understood with Sir John Beresford—I understood it entirely alluded to Sir John Beresford, during the time I was a midshipman under him."

On page 695 the same witness was asked—

"You have stated in reply to a question in page 588—Why did you leave the navy? that you did not like the sea, and Sir John Beresford got you your discharge?—Yes.

You were asked, "You are perfectly clear in your own mind that you left his Majesty's service for no other reason than your own request?" to which you answered, Nothing else?—Yes.

"How long had that dislike to the sea been upon you?—I had often been promised promotion, to get a gunner's warrant; but I never got it during the time I was in the *Majestic*. When I came into the *Poictiers* I was also told that I should have promotion; but I never got it till the latter part, when Sir John told me I was to be upon the quarter-deck. I told him I did not wish to be on the quarter-deck, for I had no friends or money to support me on the quarter-deck; that I would wish to leave the service, if it could be done.

"As far as you know of your own knowledge, it was at your request only that you were discharged, and not at the request of any other person?—Not at the request of any other person; at my request as far as I know."

He (the Attorney-General) appealed to the house, whether it was possible that such a conversation could have been forgotten by the witness during his first examination? When he called the attention of the house to the testimony of Sir J. Beresford, it would be seen that what Carrington stated was false, and that he left the navy because he desired to be taken into the service of Sir William Gell, and that he had been transferred to the *Thürbe* that he might get his discharge. Other contradictions would also be obvious. Sir J. Beresford had been called at the instance of a Noble Lord, though it was a thing not very usual. (Earl Grey here intimated his dissent.) It might be right to do so, but he (the Attorney-General) had never heard of an instance where one witness was called in this manner to support the character and consistency of another. It would have been considered strange; at least, if he, on his side, had thought fit to suggest such a course of proceeding.

It was here ordered that Counsel should withdraw, and

EARL GREY said, that Carrington having been recalled to the bar, the House had complied with his (Earl Grey's) wishes, that Sir J. Beresford should attend, but not for the purpose of supporting the testimony of any witness. A Noble Lord opposite had put certain questions to Carrington, explanatory of his previous evidence, and in the course of the answers the witness had mentioned Sir J. Beresford as the person from whom he had obtained his discharge. In order fully to sift and examine the situation in which Carrington stood, he (Earl Grey) had, therefore, thought it right and just that the evidence of Sir J. Beresford should be obtained. He had no desire either to support or contradict the witness: his object was simply to investigate the truth, and, in the execution of his duty as a peer, he had moved that Sir J. Beresford be called. If the House had not thought him justified in this suggestion, it would not have supported him in it. (Hear,

Hear.) He had now deemed it necessary to say thus much, because when a Counsel at the bar permitted himself to say that an unusual thing had been done, and that it was not the practice for Counsel to call one witness to maintain the character of another previously examined, he (Earl Grey) could not bear the statement imputing to him an improper motive, which he disclaimed, without doing himself justice by appealing to their Lordships, and contradicting an assertion which was totally groundless. (Cheers.)

Counsel were then recalled.

The Attorney-General continued. He was stating that Sir J. Beresford had been undoubtedly called to elucidate the truth, but that, under such circumstances, it was not usual for one witness to be called to confirm another. Though he was not entitled to know what had just passed, he must say, in justice to himself, that he meant to cast no imputation upon the Noble Lord. For one, he sincerely rejoiced that the course had been pursued, because it had elicited the truth and showed that Carrington had stated that which was untrue. He would now call the recollection of the House to what Sir J. Beresford had sworn, on pages 841, 842, and 843. The following were some of the earliest questions put to him:

"Do you remember a person named Wm. Carrington serving on board the *Poictiers*? Yes, as a quarter-master.

"Was he never otherwise employed than as a quarter-master? Never, while I commanded.

"Did you, when you left the ship, leave any directions for rating him a midshipman? There was an acting captain on board; Capt. Jones. At the request of Sir William Gell, who wished to procure his discharge, I directed the captain to rate Wm. Carrington as my clerk; but he was discharged, rated midshipman.

"You know, then, that he was rated midshipman? I never knew it myself; but I find that he was, in order to get his discharge.

"In point of fact, then, he was a midshipman? He was."

Sir J. Beresford then stated the application of Sir Wm. Gell, and the conversation he had with him, and that he had never offered Carrington the rank of midshipman, and that, as he knew he was to be Sir Wm. Gell's servant, it was not likely that he should propose to Carrington to become an officer. This was followed by a question which did Sir J. Beresford infinite credit:—

"Did Carrington ever state to you any difficulty he had, as to his being a midshipman, with regard to expense? No; if he had, I should have maintained him, as I did others in the service, until he could repay the expense."

It appeared that Sir J. Beresford directly and pointedly contradicted Carrington as to any conversation on board the *Poitiers*, independently of which the man had expressly contradicted himself. Was he, then, a fit person to destroy the evidence of Majochi, by deposing to certain expressions by Baron Ompteda, which really had nothing to do with the merits of the case? Carrington was the only person called to prove those expressions, although he had sworn that Francisco, a Genoese servant of Lieutenant Hownam, was also present, and who, it appeared, was in this country, and within the reach of the other side. Balancing all the circumstances, therefore, it appeared that the preponderance was infinitely in favour of Majochi.

The LORD-CHANCELLOR asked whether the Attorney-General had finished this point, as it was now four o'clock?

The Attorney-General answered in the affirmative, and the House then adjourned.

## House of Lords,

SATURDAY, OCT. 28, 1820.

After the usual forms, the Counsel were called in, and the Attorney-General resumed his speech:—

He had brought down the evidence, yesterday, to the end of what was called the long voyage. In doing that, he had omitted to observe on a circumstance connected with that journey: but their Lordships would recollect the order which her Majesty had conferred on some of her suite. That honour had certainly been made a subject of wit and pleasantry by his Learned Friends, but upon very erroneous grounds. They had dwelt on its being referred to in the preamble of the bill, as if it were there made a substantive charge; whereas it was only brought forward as one of those circumstances on which he founded the conclusion to which the whole of her Majesty's conduct led—that an adulterous intercourse had subsisted. However much his Learned Friend, Mr. Brougham, might have made the diploma the subject of ridicule, he doubted not that their Lordships would find in it matter for grave observation. It was not the simple institution of the order, however, from which any thing was to be inferred: but the ground on which importance had been attached to it was, that Bergami, the favoured Bergami, was here, as on every other occasion, the distinguished individual. It was instituted, according to the terms of the diploma, "as a reward to the faithful knights who had had the honour of accompanying her Royal Highness in her pilgrimage to the Holy Land." But what a pilgrimage was this! and what was the

motive of the journey? Their Lordships would recollect what had been proved by De Mont, and to which no contradiction was given, relative to her Majesty's attention to religious duties. This pilgrimage to the Holy Land might seem to have its foundation in religious ideas: but it had been proved by De Mont, that during the whole time that she was in the household of the Princess of Wales, from the moment her Royal Highness set out from Genoa, even at the period when she was on the threshold of becoming Queen, that the celebration of divine service, according to the Protestant faith, was omitted. Their Lordships would find, however, that consistently with the other effects of the insatuated passion which governed her Royal Highness, she accompanied that man on whom she bestowed so many marks of favour, to places of worship which were conformable to his belief: but she neglected, and suffered to be neglected in her family, the worship of the established religion of this country, which, in her situation and rank, it was her duty, her imperative duty, to see regularly performed. But who was placed at the head of the Order of St. Caroline, as Grand Master? Bergami: and, in the diploma, that man is, for the first time, styled Colonel, though he had never held any rank in the French army beyond that of quarter-master, which is only equal to that of sergeant in the British service.—He is, however, made grand master of this order, and ridiculous as the thing may be, this dignity is, by the diploma, to continue hereditary in his family, and to descend from generation to generation for ever. It is certainly worthy of observation, that this is the occasion on which he for the first time assumed the title of Colonel, which title was conferred by her Royal Highness, for he had never obtained it by military service. He is also styled in the diploma, Baron Franchina, Knight of Malta, and Grand Cross of the Holy Sepulchre, and with these titles Bergami countersigns his own diploma. This, therefore, is introduced into the charge as one of the facts which prove a criminal familiarity. He would ask why was this man so distinguished above Captain Flynn, Lieutenant Hownam, and all her Majesty's other attendants? Had he done more to merit this distinction than the rest of her suite?—O yes! He was her protector, during her pilgrimage, under the tent at Ann, and under the tent on the voyage from Jaffa to Capo D'Ansa. This was the real state of that point of the case, and, without further comment, he left it to their Lordships' consideration. He would pass over some other evidences of familiarity. He ought not to omit noticing material facts, but he would not stop to comment on the parting scene at Terracina, though attempts had been made to break down the evidence on that point which re-



lated to what passed at parting in the cabin, because there happened to be a different parting scene upon deck. After the long voyage the Princess of Wales returned to the Villa d'Este, on the Lake of Como.—There alterations were made which had no other object than to facilitate the adulterous intercourse, by making an easy communication between the bedrooms of Bergami and her Royal Highness. This appeared from Majochi's evidence, pages 44, 47, and 81, and De Mont's, page 197. The other side felt the importance of this fact, and well knew how necessary it was to counteract it. Accordingly, his Learned Friend, Mr. Williams, opened that he should be able to show that in what had been done no such object was in view; that the alteration was made in consequence of her Royal Highness's apartment being liable to smoke, and not for the purpose of shortening the access to it. His learned friends had had the architect, different workmen, and servants, at the bar, and therefore had the means of proving the fact, if it was true; but not a question on the subject was asked. Although they stated, in the opening of their case, that they would contradict the object assigned, for the alterations they had failed to contradict it. What, then, was he to infer from their failure, but that they found their witnesses would not come up to the mark when brought before that house. The case, with respect to this point, therefore, stands as it did on the evidence of De Mont and Majochi. It remains as it originally stood. His learned friends felt that a different object ought to be assigned for the alterations; they promised to prove a different object; their failure was therefore complete. He would not detain their Lordships longer at present with any thing that took place at Villa d'Este. But there were circumstances proved to have occurred after the long voyage, which, if not true, might be contradicted by many witnesses. For instance, the circumstance that occurred at the inn at Ballenzona—no, Bellinzona—the place between Milan and the Villa. Their Lordships would see what was stated by the waiter (Galli) in the minutes, page 417. That evidence had not been commented on; it had been made the subject of no observation; no attack had been made on the character of the witness. The fact was, however, quite open to contradiction, had it been untrue; but his learned friends had not ventured to meet it. Galli states that the Princess and her suite came to the inn and dined; that compliments passed between her Royal Highness and Bergami; that they helped each other to delicate morsels; and that, finally, when the company went away, Bergami got up and gave her Royal Highness a kiss, the waiter having been previously ordered to go down stairs. Now, without speaking of the

kiss, which none saw but the waiter, there were other facts sworn, against which evidence might have been called. The suite consisted entirely of Italians, and most of the Bergami family, and they might have been called to contradict what was said to have occurred at dinner. But his learned friends had not ventured to impugn this waiter's character, notwithstanding the time and opportunity which had been offered for that purpose. No attempt had been made to show that he was not a credible witness, and, in every thing he had said, worthy of belief. And here he could not help observing that, respecting general character, notwithstanding the bitter invectives uttered against the witnesses for the prosecution, and notwithstanding the bold accusations of perjury, after all the time that had been allowed for inquiry, and all the promises on this subject that had been made, not one person of respectability from Como, or any where else, had been produced to throw any doubt on the character of the witnesses in support of the bill; no attempt had been made to show that the witnesses for the bill were not in every way fully as respectable as those of the other side. Then this scene at the inn was proved by a credible witness, one against whom no contradiction had been offered; and if the fact was proved, it established the case; for one fact of this kind showed to demonstration that the conclusion drawn as to familiarity was well founded. And now on this charge of familiarity their Lordships would permit him to refer to an admission which had been made by his Learned Friend, Mr. Brongham, with respect to what occurred on board the polacre. His Learned Friend had said, speaking of the fact sworn to by Gargiale and Paturzo, of her Royal Highness sitting on a gun with her arms round the neck of Bergami, that it was such a fact that if it was proved would leave nothing to the imagination but the gratification of the last purposes of desire. Then he would say that this act in the same manner left only one conclusion to be drawn. The scene on board the polacre had been proved by two witnesses, and, like the scene at Terracina, proved by one witness, remained uncontradicted. He now came to that part of the evidence which related to what was called the tour in Germany. With respect to this topic their Lordships would recollect that his Learned Friend, Mr. Williams, in his opening, had said, "thank God, here is a triumphant case for her Majesty!" Now, what was the evidence on this subject? Their Lordships would find it in pages 301, 333, 334. De Mont had stated, that upon her Majesty's arrival at Scharnitz, her journey was delayed. She arrived about mid-day, and was obliged to remain there the following night and morning. De Mont

stated, that she retired to rest in her Majesty's room at night, and that Bergami, who had gone for passports returned in the middle of the night. Upon his return he came into her Royal Highness's room; De Mont was then ordered to leave the room, and Bergami, who was then left alone with her Royal Highness, continued in the room until morning. Now, what had his Learned Friend, Mr. Brougham, said to this part of the case? He said he would show that the moment the passports were received the whole suite got up, and that within an hour and a half her Majesty was in her carriage and the journey resumed; and that that hour and a half was occupied in packing up the baggage, paying the bills, and making other preparations for the journey. This was what was asserted in the opening; but how stood the case? His Learned Friends had three witnesses to contradict De Mont on this point, if she spoke falsely, but two only had been produced, Mr. Hownam and Vassali; the third witness, the Countess of Oldi, was for some reason withheld. Their Lordships would find Hownam's evidence at page 741, and Vassali's at pages 938 and 946. Now, he must say that he thought Vassali's evidence the most extraordinary he had ever met with. Both he and Hownam swore that the baggage was packed up, that it never had been unpacked, and that all the preparations for resuming the journey, made out of doors, consisted in clearing away the snow. Vassali states that, after his return from Inspruck, he went into her Majesty's room. He does not venture to swear that she was not undressed; but he says that she was covered with shawls. He is asked, page 897—

“Was she dressed or undressed? She was covered with shawls or something like that.”

De Mont, it would be found, did not state whether she was dressed or undressed; and their Lordships, upon examination, would see that the two statements differed very little. But was it to be stated as a matter of little importance to ascertain whether her Royal Highness was dressed or undressed while this man and Bergami were in her room? He came now to that part of the evidence which related to their settling off. It was, after a good deal of shuffling, extorted from the witnesses that they did not set out till broad day-light. Did not this, then, correspond with what De Mont had sworn? Vassali, when asked on his cross-examination how he had employed himself after his return from Inspruck until their departure, mentioned his going backward and forward to her Royal Highness's room, but said nothing to account for his going there so often. When he was asked what preparations were making for the journey, he only said, clearing away the snow; and when afterwards asked whether any prepa-

rations were making in the inn, his reply was, that he had not said there were any preparations making there. He was then asked, whether he, who had that day travelled from Scharnitz to Inspruck, had not taken rest from half-past two, when he returned, till the party set out. To this he said, that he had been an officer, that a man who had been accustomed to campaigns thought little of such things, and that he felt no fatigue. According to this account, therefore, he remained, after this journey, from half-past two until day-light, without taking any rest. He knew not what their Lordships would think of this story, and he left them to draw their own conclusion. But how was he employed all the time? It appeared that all he did was to move backward and forward between the Princess's room and the passage. It was true that he said he carried her Royal Highness something to eat, but that was between five and six o'clock in the morning. He assigned no reason for this conduct, except that it was the practice for those who attended on royal personages to be always in readiness. If this was to be called a triumph, it certainly was not such in contradiction to De Mont's evidence, and he knew not where the triumph was to be found. Did it consist in Vassali moving backward and forward, like the pendulum of a clock, between her Royal Highness's bedroom and the passage of the inn? So much for the affair of Scharnitz. He now came to that of Carlsruhe, and to that he solicited their Lordships' most serious attention. The occurrences stated by Barbara Kress were to be found at page 181 of the minutes. She proved, that one morning, during the Princess's stay at Carlsruhe—she did not precisely say which evening—she had, as a chambermaid, to carry water into Bergami's bedroom; and here he wished to call their Lordships' attention to the situation of the rooms. The room to which the witness carried the water, No. 12, opened into the dining-room, No. 11, from which her Royal Highness's room, No. 10, entered; so that there was a direct communication from one bedroom to the other. It was only necessary to open the doors of Nos. 10 and 12, and cross the dining-room, to get from the one bedroom into the other. This was admitted; at least it was not attempted to be denied, and through the whole case no attempt had been made to deny the proximity and situation of the bedrooms; and he had a right to assume facts proved which might be contradicted, if no contradiction be offered. Vassali and Hownam had been called, and could have contradicted Barbara Kress respecting the situation of the bedrooms; but no question on that point was put to them: he had therefore a right to infer that those witnesses had confirmed her testimony as to

the rooms. What did Kress state as to what she observed in Bergami's room? She said that a broad bed was put into Bergami's room; that between seven and eight o'clock in the evening, when she was carrying in the water, she saw Bergami in bed, and the Princess sitting on the side of the bed; and that, when she entered, her Royal Highness had just jumped up. Their Lordships would recollect the long examination which took place on the word which the witness had used, and the construction attempted to be put upon it, as if it had been possible for the witness to mean that when she entered she supposed the Princess had started up. The language used by the witness had not been well understood, but he put it to their Lordships whether the fair construction was not, that her Royal Highness got up in consequence of the interruption given by the entrance of Kress; that she saw her jump up from the bed on which she was sitting! There was no inconsistency in the witness's evidence. She stated that on her entrance she saw the Princess sitting on the bed, with the arm of Bergami round her neck. The witness could not say whether Bergami was dressed or not. She only observed that the arm which was round the Princess's neck, and which he let fall on the interruption, was white. The following question was put to Kress:—

"Did you perceive whether Bergami's clothes were off or on? I cannot say; I only saw that the arm was white. When I entered he let the arm drop."

The witness herself, surprised at so extraordinary a scene, immediately retired from the room. An attempt was made to contradict what Barbara Kress had deposed, by accounting for every minute of the time spent by her Royal Highness at Carlsruhe, and thereby to show that the account given by this witness could not be true; but the attempt had failed. Hownam, as their Lordships would see in page 717, had been asked whether her Royal Highness did not spend the greater part of her time at court, and he replied, almost always, either at court or with the Grand Duke's family. He was asked—

"Where did she generally dine while at Carlsruhe? At the Grand Duke's, or with the Margravine, his mother."

"Were parties assembled on those occasions to meet her Royal Highness? Parties were always assembled to meet her Royal Highness, except on the first day."

It was also that she usually supped out. So much for the manner in which this part of the charge was attempted to be answered by his Learned Friends: but at page 757 a question was asked by one of their Lordships—

"You have said that while at Carlsruhe the Princess dined every day with the Grand

Duke or the Margravine: did you on those occasions dine with her? I did.

"When she supped at the Grand Duke's, did you also sup there? I did."

Then followed questions about the time at which the Court dined, and the distance between the palace and the inn, to which he begged their Lordships' attention.

"About what time did the Court dine? I cannot exactly tell; the evening party generally lasted until about 12 o'clock."

"Can you of your own knowledge say whether between the dinner and supper there was time for her Royal Highness to return home? I should imagine yes."

"Did she ever so return home? I do not recollect."

"Can you swear that she did not? I can only state that to my knowledge she did not; if she had, I think I should have remembered it."

Now there is in all this no contradiction to the testimony of Barbara Kress. L'entrepreneur Hownam speaks only from general recollection. He says he does not remember the circumstance of the Princess going home, but he will not undertake to say that she did not, and that she had not ample time for that purpose. Here he leaves a blank, and, in order to fill up that blank, his Learned Friends had called Vassali, whose recollection was certainly more particular. Their Lordships, by referring to page 934, would find that he recollected the precise day of their arrival at Carlsruhe, and every minute particular connected with it. It would, however, be worth their while to contrast what he swore on his examination in chief with that he afterwards swore on his cross-examination. At Carlsruhe, his memory was so accurate, that he could recollect every petty circumstance which occurred there; that he could tell the precise day on which they arrived at it; and that he could account for every minute which her Royal Highness spent there—and yet upon his cross-examination it failed him to such a degree, that he could not say to what place he went with her upon leaving Nuremberg, or when they arrived, or where they dined on reaching Munich: in short, his memory was most retentive with regard to every thing which occurred at Carlsruhe, but most unfortunately deficient with respect to any thing which passed elsewhere. The examination in chief was as follows—

"Do you remember on what day you arrived at that place? Yes."

"Mention the day? The 25th of March."

"In what year? I believe 1818."

"At what time of day did you arrive? About noon."

"Do you remember where you dined on the day of your arrival? I recollect that perfectly."

"Where was it? At the Margravine's."

" Was the Princess there? Yes.

" And Bergami? Yes.

" And Madame Oldi? Yes.

" Where did you sup on the first day? At the Grand Duke's.

" Do you remember whether the Baron d'Ende was the chamberlain of the Grand Duke? I remember it perfectly.

" Do you remember where you dined the second day? At the Grand Duke's.

" Did her Royal Highness dine there?—Yes.

" Did Bergami dine there? Yes.

" And the Countess Oldi? Yes.

" Did Bergami and the Countess Oldi remain there the whole afternoon?—No.

" What did they do? Bergami complained of the head-ach, and caused his sister to accompany him to the inn.

" About what time in the evening was it? About 5 o'clock."

The Attorney-General.—I beg your Lordships' particular attention to the few next questions and answers.

" Did her Royal Highness leave the Grand Duke's at that time? She remained with the Grand Duchess.

" Did you remain? I did.

" Did you come away with the Princess? Yes.

" At what hour? Late in the evening.

" What was done at the Grand Duke's after Bergami and the Countess Oldi went home? Amongst other things they sang.

" Did you sing yourself? With the Grand Duchess.

" On the third day where did her Royal Highness dine? At the Margravine's."

The Attorney-General.—This, then, is the second time of their dining at the Margravine's, but Mr. Hownam has sworn that they only dined there once. His memory, however, cannot, I suppose, be put in competition with that of Vassali. So then they did dine twice there.

" Were you present at that dinner? Yes.

" How was that evening employed? We went to the theatre, and then to sup with the Grand Duke.

" Were her Royal Highness and her suite at the dinner and the play? Yes.

" On the 4th day did you remain at Carlsruhe, or go any where else? We went to Baden.

" Where did you dine? At the inn.

" At Baden? At Baden.

" How far is Baden from Carlsruhe? I should believe about an hour's riding in the carriage.

" On the day you went to Baden, where did the suite of her Royal Highness and her Royal Highness dine? At the Margravine's.

" Did her Royal Highness and her suite sleep at Baden on the night of which we have been speaking? On the day we set out we reached Baden: we slept at Baden.

" The following day, when you dined with the Margravine, in what manner did you pass the afternoon? In amusement, in society.

" Where was that? At the Margravine's.

" At what time did you return to the inn that night? About ten o'clock.

" Have the goodness to mention what you did on the following day? On the following day, I believe, we dined at the Grand Duke's: on the evening we set out, after having taken some refreshment at home."

Such, continued the Attorney-General, was Vassali's examination in chief, precise and definite upon every point; but, when he looked at the very contrary nature of his evidence in cross-examination, a strong suspicion was excited in his mind that he (Vassali) had been looking at the evidence of Barbara Kress, and had been refreshing his memory, in order to contradict her, for beyond what occurred at Carlsruhe, he positively recollected nothing at all. Their Lordships would find his cross-examination at p. 942:

" You have said that you accompanied her Royal Highness to Munich, and that Bergami dined there at the King's table; did he dine there more than once?—Yes.

" How often?—I cannot precisely say.

" How long was her Royal Highness at Munich? I believe between 10 and 15 days. I do not know precisely.

" Where did she dine the first day, when she arrived at Munich? I believe at the inn.

" Where did she dine the second day?—I think with the King.

" Where was she in the evening of the second day? I do not know.

Where did she dine the third day at Munich? I cannot mention precisely where we dined every day.

" Where did she spend the third evening at Munich? The third day I do not know.

" Where did she dine on the fourth day at Munich? I have said that I cannot fix where she dined precisely every day.

" Where did she pass the evening of the fourth day at Munich?—Some evenings we spent at the King's, some evenings at the Prince Beauharnois'; but I do not know which evening. I do not know how to fix how we passed each evening precisely.

" Do you remember how many times you dined with the King at Munich? With the King, I believe, twice; and at the state-table of the King, I believe, two or three times, or thereabouts.

Where did you go from Munich? I believe, but I cannot precisely say, to Nuremberg.

" How long did you stay at Nuremberg? I believe two days.

" Where did you go from Nuremberg?—I do not remember.



"You do not remember to what place you went from Nuremberg? precisely: no, I cannot tell."

"How long were you upon that tour?—I should suppose three months, or thereabouts."

How different is this (continued the Attorney-General) from his memory at Carlsruhe: there he knows how every minute is spent; here he knows absolutely nothing. At page 944 he is asked, "What makes you remember so precisely where you dined every day when you were at Carlsruhe, and you cannot recollect where you dined when you were at Munich?" and he makes the memorable reply of "A man may remember one thing, and may not remember another, without being able to assign any cause." He (the Attorney-General) recollected well how ingeniously this point had been argued by his learned friend, Mr. Denman. He had said, that, to a man in Vassalli's rank and station in life, nothing was so natural as that a great and lasting impression should be made upon his memory by a circumstance so extraordinary as that of dining with a Royal personage. Allowing that to be a fact, certainly the dining with the King of Bavaria must have appeared as extraordinary to Vassalli as the dining with the Grand Duke of Baden. But yet, O unfortunate memory of Vassalli, it betrayed him entirely as to that circumstance! He could not tell their Lordships positively where he had dined any one day at Munich; but at Carlsruhe he could tell them that on the first day her Royal Highness dined at the Margravine's, and supped with the Grand Duke; that on the second day she dined with the Grand Duke, and supped with the Grand Duchess; and so on with regard to her manner of passing every other day. Their Lordships must, therefore, examine his testimony very closely, not only in those points where he contradicted other witnesses, but also in the general tenour of his narrative. What did Vassalli say as to the manner in which her Royal Highness spent the second night after her arrival at Carlsruhe?—that she remained with the Grand Duchess, Bergami being ill at home in bed. But did their Lordships recollect what Vassalli said at page 943?—that "the inn at Carlsruhe was only a little distance from the Grand Duke's palace, about three minutes' riding in a carriage, and that the Margravine's palace was nearer to it than that of the Grand Duke." Then he asked whether it was not only possible, but probable, that she had returned from the Grand Duke's to visit her paramour? Had Vassalli proved that she had not returned? No such thing. Had Mr. Hownam proved it? No such thing. Their Lordships had then the positive oath of Barbara Kress, in opposition to the loose recollection of the two witnesses, Hownam and Vassalli, which, in any ordi-

nary court of justice, would be quite sufficient to prove the fact alleged against her Royal Highness. How, then, could their Lordships have any doubt of the criminal intercourse between these two parties, when they considered this circumstance in connexion with the admission of Mr. Brougham, who had said, that if it could be proved by a credible witness, that her Royal Highness had sat upon Bergami's knee, it left nothing for inference except the existence of an adulterous intercourse between the parties? It was clear, then, to every unprejudiced mind, that the last favour had been granted by her Royal Highness to Bergami at Carlsruhe, as he had shown that it had been granted at Aum, at Catania, in the polacre, and elsewhere. Besides this fact, Kress spoke also to another, to which his learned friends might have offered a contradiction, but to which they had not attempted to offer any—he meant the finding of her Royal Highness's cloak in Bergami's bed. Her evidence began at page 187, and he begged their Lordships' particular attention to it:—

"Did you at any time, when you were making up the bed, discover any thing upon the bed? On the bed do you mean?"

"On or in the bed? In the bed I have found a cloak."

"Was that a cloak appearing to belong to a female? Probably, because behind it had a kind of hood."

"What did you do with that cloak? I took it out and unfolded it."

"At what time of the day was it you found this cloak in the bed? It was in the morning, when I made the bed."

"Describe a little more particularly the cloak: what was it made of? It was of silk, the colour grey."

"Did you afterwards see any one wearing that cloak? A servant took it out of my hand."

"Did you see any person wearing that cloak afterwards? I have seen a cloak the next day upon the Princess, but I cannot say that it was the same."

"Was it a cloak of a similar description to that you had seen upon the bed that you saw the Princess wearing? Yes, it was of the same colour."

"Do you know whether it was of the same make—whether it was of silk—that you saw upon the Princess? Yes, it was likewise silk."

"Had the cloak the Princess was wearing a hood like that you saw in the bed? Yes, it had such a hood."

The Attorney-General then called upon their Lordships to observe her cross-examination upon that point—an important one it was, and the drift of it went to show that she had handed this dress to a jager dressed in green. As she had been cross-examined to that point, it was clear that his Learned

Friends knew who the servant was. Why had they not called him? At p. 206 their Lordships would find the following cross-examination:—

“Was there any body else in the room at the time you made it? There was nobody in the room except a servant in a green coat, who came into the room.

“Did he come into the room while you were cleaning it out? Yes, it was when I was in it he came to assist me in turning the mattress; I asked his assistance when he was just there; he came to assist me in turning the mattress.

“Who was the servant in the green? I cannot tell you this—there were two of them; but I have not observed them so closely; I do not know to whom they belonged.

“Have you ever seen them before? The servants?

“Yes, the servants? I never saw them before, only at the time when the Princess was there; then I saw them running about.

“Have you ever seen them since? No, I have seen none of them since she left it.”

And a little lower down his Learned Friend had asked, “Was one of them a jager?” To which her answer was, “I do not know this; one of them had a green coat; but whether he was a jager, I have not questioned him.” He maintained that this charge, if it had not been true, might have been easily contradicted. Was there or was there not a jager in green? They might have produced all her Royal Highness’s servants to prove either that there was no such servant, or that, if there was such a servant, that he had never received any such cloak.—Had her Royal Highness such a cloak? If she had not, would not the Countess Oldi have been able to prove it, or to have determined to whom it belonged? They might have contradicted every tittle of this charge, and it was one which required contradiction much more strongly than that which Hownam and Vassali had been called to contradict. They had not dared to call the servants to show that it was her Royal Highness’s cloak; and if it was her cloak, what inference could be drawn from it which was not conclusive against her Majesty? How came it into Bergami’s room? How was it that her Royal Highness had worn it, after it had been discovered there? Had either of those circumstances been accounted for? How had they contradicted Kress? If they had not contradicted her at all on this point, it not only proved a strong fact against her Royal Highness, but it proved that she could not be contradicted. Kress had also stated another, and a third fact, in the statement of which he should be very brief on account of its disgusting and revolting nature—he meant the stains observed upon the bed.—His Learned Friend, Mr. Denman, had stat-

ed that the manner in which this witness had given her testimony upon that point was such as convinced him of her falsehood. He had said that the blushes with which she had delivered it were the blushes of guilt, arising from a consciousness of the falsehoods which she was uttering, and not the blushes of modesty, arising from the disgusting details which she had to recite to their Lordships. But, if their Lordships were to judge of the validity of testimony by the manner in which it was given, he would maintain that this witness was entitled to the most implicit credit. Never had evidence been given in a more reluctant and unwilling manner: it was not an exaggerated statement of the facts—it was truth wrung out and extorted from her; and thus greatly enhanced the credit which was her due. He wished to remind their Lordships that Kress had been cross-examined as to the town in which she was born, the places where she had lived, the family with which she was connected, and to every other circumstance of her private life, and that she had even been asked whether she had ever frequented a disreputable place called the Glass-house. He likewise wished to remind their Lordships, that his Learned Friends, or at least that Mr. Vizard, had sent an emissary to Carlsruhe to procure the attendance of the Baron D’Eude. That emissary would not have done his duty if he had not, whilst at Carlsruhe, made inquiries regarding the character of Kress. If the result of such inquiries had been the discovery of any flaw in her character, would not his Learned Friends have called witnesses to the bar in order to impeach it? But not a person had been called to throw a spot or a blemish upon it: “And here again,” continued the Learned Gentleman, “I have to complain of that press which gives the world reports of speeches, said to have been made at public meetings, but which, I am convinced, could never have been uttered. In those speeches the character of Kress is entirely blasted; she is asserted to have undergone a most disgraceful punishment in her own country; she is represented as a woman infamous, and undeserving of the slightest credit; facts are stated against her which are totally untrue, and for no other purpose than because they are swallowed greedily by the multitude. But at your Lordships’ bar, no attempt has been made to impeach her character: no witnesses have been called to substantiate those charges, which have been circulated by infamous means out of doors, but which, I again assert, it has not even been attempted to prove in evidence.” Thus their Lordships had a witness in Kress who was unimpeached, who spoke to facts within her own knowledge, who spoke likewise to facts which might have been contradicted by other witnesses, but which had not been so contradicted; and therefore, if all the

other evidence was blotted out from the minutes, her evidence was sufficient to establish the adulterous intercourse. His Learned Friends had shown by their conduct that they felt the pressure of her evidence; for how had they endeavoured to get rid of it? Why, by introducing the correspondence between the Baron D'Ende, which, by-the-by, was not evidence. Their Lordships were called upon to believe that the Baron had been prevented from coming to England, not by illness, but by other reasons. His Learned Friends said that the Baron at first stated to their emissary that, though he held estates under the King in Hanover, he had no objection to come over to England on behalf of her Majesty; but that at last, though every exertion had been made by this government to procure his personal attendance, he refused to come on account of a fictitious illness, a wish to gratify by his absence a feeling in a certain quarter, though his Learned Friends did not more fully describe what that feeling was. To speak the plain truth, he, for one, most firmly believed that his Learned Friends did not wish for the appearance of the Baron D'Ende, especially as his memory could not be better than the memory of Vassali, who had accounted for every minute which her Royal Highness had spent at Carlsruhe. Another topic urged in the defence was the production of the person named Grimm to confirm Kress, and who, as well as that woman, had been subjected to the most unjust aspersions. Why, it appeared from Kress's evidence that Grimm was not present at the scenes which she had witnessed, and that, therefore, he could not have confirmed her in the material part of her statements. He trusted that he had now satisfied their Lordships of the credibility of Kress; and he should, therefore, dismiss her testimony with this observation—that her character was unimpeachable, that her evidence was incapable of being contradicted, and that it was open to contradiction if it were not true. Under such circumstances, what unprejudiced mind could doubt the existence of criminality on the part of her Royal Highness? At Turin a strong fact was deposed to by a witness named Birollo, on whose testimony he should make the same remark which he had just made upon that of Barbara Kress—namely, that his character had not been attacked, and that his statements remained untouched by any thing that had been urged in the course of the defence. Under such circumstances, if a witness were not to be believed, he did not know by what means any charge could be established in future. At page 150 there was his account of the transaction to which he alluded—

“Were you with the Princess at Turin? I was.

“Were you at the inn there? We were,

“Do you recollect the Princess going to Court any day? I do.

“Do you recollect whether on that morning you were in Bergami's bedroom? I do.

“At what time of the morning was it?—About nine, or half-past nine.

“Had the Princess got up at that time? I do not know.

“For what purpose did you go into Bergami's bedroom? I went to carry a rustle the dame d'honneur to put round her neck, and a pair of gloves.

“Did the door of the chamber of the dame d'honneur open into that of Bergami? We entered into the room of Bergami, and then on the right there was the door of the room of the dame d'honneur.

“Did you observe the state of Bergami's bed, whether it appeared to have been slept in or not? At the moment I was coming out from the room of the dame d'honneur, I saw Bergami coming out from the room of the Princess, and open the curtains of his bed: I saw that it was made, and he scolded me.

“Was Bergami dressed when he came out of the Princess's room, or half-dressed? No; he had a morning-gown of silk striped; he had his drawers, his stockings, and slippers.”

This witness was cross-examined at page 153:—

“When you said in a former answer Bergami's bed appeared to be made, did you mean that it appeared as if it had not been slept in; I did.

And, again, a little lower:—

“When Bergami came out of the Princess's room and scolded you, can you state what Bergami said? You scoundrel, what are you doing here? Who has opened the door? I said I had found it open, and he said, Go away.”

Such, continued the Attorney-General, was the deposition of Birollo. There was a witness who might have been called to contradict him, but who had not been called, and that was the dame d'honneur, the Countess Oldi, to whom he was carrying some articles of dress at the time. Here then was a fact which went to the root of the case, which showed the habit which ran through the whole of it, and which, if not contradicted, destroyed the remaining spark of life which existed in her Majesty's defence. In the progress of the case, the circumstance, on which it was next his duty to comment was that which had occurred at Trieste, and which his Learned Friends had considered as the triumphant part of their case. Their Lordships would remember the

manner in which Cuchi had described the situation of the different rooms, and also the strict and acute cross-examination which he had undergone—first, by his Learned Friends, and afterwards, very properly, by their Lordships themselves. They would see that his Learned Friends had made no attempts to contradict him upon that point: they admitted the material fact, the arrangements of the rooms, and the account of what he saw, but turned round and contradicted him on the mere fact of time—first, by producing Lieutenant Hownam's letter, which, though put into the post on the 18th, might not have been written at Trieste on that day, but on another, at Venice or elsewhere—and, secondly, by Vassali's declaration, that they did not stay at Trieste more than a day and a half. To prop up that part of their case, Mr. Brougham, with an adroitness which had distinguished him throughout the whole of this case, and which, though an unpardonable irregularity, he would call by no other name, held up in his hand to their Lordships a newspaper of Trieste, and read it before he knew whether it could be received in the evidence or not. He said that he did it with the intention of showing that her Majesty visited and was visited by persons of rank; but the real cause of doing it was to show that the time which her Majesty stayed at Trieste was not longer than the time mentioned by Vassali and Hownam. This proved to what shifts her Majesty's Counsel were driven to uphold their shattered case. If the matter contained in that paper could avail her Majesty, why were not persons brought from Trieste to give oral evidence to the same effects on her behalf? The truth was, no such persons could be found; and if they were, it was an impeachment of Mr. Vizard's professional activity that he did not bring them; but no one could accuse that gentleman of a want of zeal for his royal client. The situation of the rooms, the hole in the door, and that also in the hangings which concealed it, stood undenied—his Learned Friends, pretending to think that the time alone was material, had so left, not, however, without a threat to bring Cuchi to punishment for the testimony he had given. Such threats were easily thrown out, and the object of them could not be mistaken. His Learned Friends might, however, find that other witnesses, whether English or foreign he would not say, might have tripped over quite as much as Cuchi with regard to time, and might have interlarded their evidence with unfounded statements quite as much as that witness was charged to have done. He now came to another part of the case which had produced so much comment on the part of his Learned Friends, and which rested on the testimony of Sacchi; and here he must confess that he felt considerable surprise at the extraordinary sarcasm which his Learned

Friend (Mr. Brougham) had suffered to escape him against the conduct of counsel on his (the Attorney-General's) side of the bar—a sarcasm which was wholly undeserved, as they had never represented, as Mr. Brougham had charged them with representing, that a witness, who had served in the army of Napoleon Buonaparte, was entitled, on that account, to additional credit. "There was a time," said his Learned Friend, "when the advocates for the bill held a language of a very different nature from that which they did at present: there was a time when they did not consider the bravery which enabled a man to win a pair of colours, the most decisive proof of a scrupulous conscience. His Learned Friend, before he made that sarcasm, ought to have recollected that it was frequently the lot of those who indulged in sarcasm to find it recoiling upon themselves, and striking with unrelenting impartiality friends as well as foes. Was not that, he would ask, the case at present? Her Royal Highness had been bred and born in a country distinguished for the constant efforts which it had made to overthrow the tyrannical ruler of whom he had just spoken—she had been united to a Prince, who, much to his own honour and glory, had unceasingly exerted himself to repress the ruin which that despot endeavoured to hurl not only upon her native country, but also upon that with which she had connected herself by marriage. He could not, therefore, suppose her to have any just reason for preferring the soldiers of that revolutionary chieftain. And yet he found that Bergami, the favourite Bergami, had been a soldier in his army; that Vassali from whom it had been extracted in evidence that he was a knight of the order of the iron crown, in order to give additional weight to his testimony, had been a soldier in his army; and that the joint-chamberlain with Bergami, the General Olivieri, had also been a soldier in that self-same army. He likewise found that her Royal Highness, not from any partiality to the enemies of her country, had deemed it consistent with her dignity, as a British Princess, to personate at a masked ball, which she had given in his honour, the Genius of History, and to crown with a laurel-wreath the bust of an individual, against whom her nearest relatives and friends had often fought and bled, and for whose destruction the best blood and treasure of that country, of which she was on the threshold of being Queen, had been long expended, because he was the most inveterate foe of that glorious constitution which at present existed within its dominions. He begged leave, therefore, to tell his Learned Friend, that the sarcasm which he had uttered was completely misplaced, and to implore their Lordships not to allow that observation to operate to the disadvantage of Sacchi which they had not allowed to



operate to the disadvantage of Vassall, Olivieri, and other witnesses of her Royal Highness. Let their Lordships carefully examine the testimony of Sacchi; let them inquire in what part it was contradicted, in what part it was unimpeached; by that inquiry let it stand or fall, but let it not be said to be contradicted either before or pending any inquiry which might be made into it. He now came to the first charge of material contradiction against Sacchi—namely, his having said that he changed his name in consequence of the tumults at Dover. But, if their Lordships would look to Sacchi's answer to the next question, they would find that he was not alluding to the tumults at Dover when he gave the reply which had been so much insisted upon. What said the minutes?

(Here the Attorney-General referred to the minutes; but, not being able at once to find the particular passage to which he wished to refer, apologized to their Lordships for trespassing so much upon their attention, and also for the delay which he then occasioned them. (Hear.) As it was owing to the multitude of references which he found it necessary to make, he trusted that their Lordships would be satisfied with his excuse. (Hear.) He then proceeded to read the two following questions and answers from Sacchi's examination:—)

"You have stated that when you came to this country you assumed the name of Milani: what was the reason why you assumed that name?—I took this name on account of the tumults (*tumulto*) which had taken place, and of the danger I should have run if I had come under my name, knowing that I should have been known.

"You have stated that you have taken another name; when was it that you assumed the name by which you now go?—It was immediately after the affair which happened at Dover."

From these answers it appeared that his Learned Friend, Mr. Brougham, when he had argued with so much eloquence on the point, had entirely forgotten the answer which Sacchi had made almost immediately before. Their Lordships would also recollect the ingenious argument which his Learned Friend had delivered on the answer which Sacchi had given when questioned as to the 50 Napoleons placed to his credit at Lausanne. Sacchi, said his Learned Friend, was asked how much money he had at his banker's at Lausanne, and he answered 50 Napoleons. "Had you never any more?"—Positively not." He was then asked whether he had never said that he had more? What would have been the natural answer if any man had ventured to put such a question to one of their Lordships? What would have been the reply? "Certainly not:" because it had already been

stated that no more than 50 Napoleons was, in fact, at the banker's. But was this Sacchi's answer? No such thing. He shall considerably about it, and replied that he could not swear when he was in debt. Hence, in conclusion, argued his learned friend, "Sacchi ought to be discredited altogether." But, here again, if his learned friends applied this reason, how many answers of their own witnesses would be destroyed! But these observations had been applied to Sacchi at the close of the case, and had, in the opinion of his learned friends, so completely destroyed him, that they called no more evidence. Their Lordships, however, would think that evidence ought to have been called to contradict him. The learned counsel then proceeded to examine the testimony of Sacchi, and to contend that there was nothing in this testimony which in the slightest degree warranted the observation of his learned friend, Mr. Dorman, or justified the sort of reasoning in which he had indulged. What was the fact stated by Sacchi? That he was a courier in the service of her Royal Highness, and that he accompanied her in that character to Sinigaglia. He was very little cross-examined as to this part of his evidence; but three letters were put into his hand, which he proved. Now, where were those letters? if they had any reference to this case, why had they not been produced? But he would ask why his cross-examination as to the occurrence on the journey to Sinigaglia had not been more particular? If it was meant to contradict him as to his statement of those occurrences—and a cross-examination might naturally have been expected—he (the Attorney-General) would have seen the drift of his learned friends, and would have been able to call witnesses to fortify that part of his testimony from the persons who had actually accompanied him. And here again he felt incumbent on him to advert to the opinion of Mr. Williams on this subject. Mr. Williams stated that he would call a witness who had been in the carriage at the time when the alleged gross familiarity of the Princess towards Bergami was asserted to have taken place, who would distinctly negative that assertion. He sincerely wished Mr. Williams had redeemed his pledge, as that such a person—and he presumed it to be the Countess Oldi to whom he referred—had been produced. Their Lordships, he was sure, would agree with him in thinking that such a witness could have done infinitely more than all that had been attempted to be done by Carlo Forti, who, he contended, had been himself contradicted by the evidence of Lieut. Hownam and Vassall. He would bring to their Lordships' attention what the evidence of Carlo Forti had been, and from thence they would see the positive contradictions which he had received from his

learned friends' own witnesses. Under such circumstances he would put it to their Lordships, whether the facts to which he had sworn were deserving of credit? The examination of Forti would be found in page 682, and was to this effect:—"I was a courier in the service of her Royal Highness; I entered her service on her departure from Milan; it was in the year 1817." In answer to subsequent questions he says,—“I entered her Royal Highness's service when she was going to Rome. I applied to be taken into her service, because at the moment I was out of service?” He now begged their Lordships to turn to what Vassali had said on the same subject, at page 636. What did he say?—

“How long had Carlo Forti been in the service?—He began the service at Rome definitively, but provisionally he began from Loretto.

“Can you state the occasion on which Carlo was provisionally hired at Loretto?—As Forti was acquainted with the city of Rome, being a Roman, he was sent with a despatch for this object.”

At page 958 he was examined by their Lordships, and see his evidence there:—

“Did you say that Carlo Forti was first taken into her Royal Highness's service at Loretto? I said that Carlo Forti entered her Royal Highness's service at Rome, and that previously he set out with a despatch.

“Did you ever see Carlo Forti in her Royal Highness's service, before you saw him in her service at Rome? From Loretto to Rome provisionally.

“Did you accompany her Royal Highness in her journey from Milan to Loretto?—Yes.

“Did you see Carlo Forti on that journey? Carlo Forti set out as a private individual, but not as a courier; they did him the favour to take him, in order that he might see his brother at Rome, not as a courier.

“Did Carlo Forti, in point of fact, accompany her Royal Highness in her journey from Milan to Loretto? From Milan to Loretto he travelled in the suite of her Royal Highness.”

The Attorney-General was proceeding to point out some contradiction, as he contended, in this evidence, when

Mr. Denman interposed, and complained that his Learned Friend had omitted a very material part of the evidence to which he had referred. (Cries of “Order, order.”)

Mr. Denman. My Lords, I don't know if I am called to order. (Cries of “No, no, no.”)

The Attorney General was obliged to his Learned Friend, Mr. Denman, for calling his attention to any omission or mistake that he might inadvertently make. His duty was to show their Lordships the evidence as it

stood, and merely to that he wished to confine himself.

“Did Carlo Forti go from Loretto to Rome at the same time with her Royal Highness, or did he go before? Yes.

“He went with her Royal Highness from Loretto? Yes.”

Now, here their Lordships would perceive that this man Carlo, Forti said, was hired at Milan; but Vassali said “they did him the favour to take him, in order that he might see his brother at Rome and not as a courier.” He contended that this was a contradiction of a fact on which his memory could not have deceived him if he had come there to speak the truth. Then see the evidence of Forti as to Sacchi's not travelling as a courier to Sinigaglia, at page 634, whose being asked “About what time did they arrive at Sinigaglia,” he answered, or the following day, at 11 o'clock;” and then he went on to state that Sacchi went in this carriage, and he (Carlo Forti) accompanied her Majesty as courier on the journey. Although the circumstances had occasioned a smile when it was mentioned, he could not believe the reason stated by Forti for Sacchi's not going as courier on this journey. It was two months before the journey that Sacchi had met with the accident described, and the effects of which were said to have continued during all that time. This was the reason assigned for his not going as courier, and he would ask if that was a sufficient reason? He would ask their Lordships to consider the credibility of that story when compared with the other parts of the witness's testimony. He thought it hardly possible that the effects of such an accident should have continued for 8 months, and that Sacchi should not have been able during that time to resume his occupation of accompanying her Majesty on horseback. Now, see Forti's account of the carriages, and see if it tallied with the accounts of Hownam and Vassali. At page 634-5, he stated that her Majesty travelled in the landaulet, and that the Countess Oldi, Bergami, and Victorine, also rode in it. On his cross-examination, at page 641, was the following evidence:—

“How many carriages accompanied her Royal Highness when she went from Rome to Sinigaglia? Three carriages, including her own.

“Who travelled from Rome to Sinigaglia in the bascatella? Mademoiselle De Mont, Mademoiselle Brunette, and Lieutenant Hownam,

“Who travelled in the caratella? Mr. William and Mr. Vassali.

“Who was in the carriage in which her Royal Highness travelled? The Countess Oldi, her Royal Highness, the Baron, and Victorine.”

So that here their Lordships would perceive

he made only 3 carriages on that journey. He accounted for the 4th carriage by stating that Louis Bergami set out in it before the rest. Now, let their Lordships look at the account given by Hownam and Vassali. Hownam's account was at page 746; and it would be recollected that he had not ventured to swear that Sacchi did not accompany her Majesty on that journey—a circumstance of importance, because he was intended to support Carlo Forti.

(Page 745.)—"Do you remember in what carriage the Princess travelled? I think it was the landaulet.

"Are you sure it was in the landaulet? I am not certain, but I think it was. She had travelled in it to Rome: in fact, she almost always travelled in that carriage.

"It was very hot weather, and you travelled by night to avoid the heat of the day? Precisely so.

"Who travelled in the carriage with her Royal Highness? I rather think the Countess Oldi and Bergami."

So that in this hot weather, although it appeared that he placed only 3 persons in the carriage, and although they travelled in the night-time to avoid the heat of the day, yet here they found her Royal Highness with 3 persons in the same carriage. One would have thought, since there was a place in another carriage (although it could hardly be expected that Bergami should have been removed; no, that would have been too much), that surely the Countess Oldi might have been removed to another carriage. It was hardly to be supposed that her Majesty would think that indelicate, when she had slept for weeks under the same tent as this man. Such, however, was the number of persons that travelled in the carriage with her Royal Highness. Hownam then stated as follows;—

"Who travelled in the third carriage? I think it was William Austin and Captain Vassali,

"What carriage did you travel in? In the English landaulet, I think."

And Hownam himself he believed, travelled in the landau with De Mont and her sister. Here, in page 746, he said he travelled in the English landaulet, and at the foot of the page he made a fourth carriage.

"Was there a fourth carriage, from Rome to Sinigaglia, besides the three you have mentioned? I have mentioned four.

"Who travelled in the fourth? I travelled in the fourth, with a Roman Captain, Lancy."

There was here a mistake, somehow or other, between Hownam and Carlo Forti, because Forti said there were three only, and Hownam said there were four. Again, at page 722, he said he travelled in an English

landaun, and that Schiavini was also in it; but that was contradicted by Olivieri, because he said that Schiavini did not set out on that day.

Mr. Denman begged pardon, but he really could not find it sworn by Lieutenant Denman that Schiavini had rode in the same carriage with him.

The Attorney General then read the following evidence at page 723:—

"Do you remember who accompanied you in that landau? I think the Count Schiavini, Mademoiselle De Mont, and her sister."

Here he made these persons ride in the landau with him, but it appeared from Olivieri's evidence that Schiavini did not set out from Rome till next day. At p. 89 Vassali was asked at what time they set out from Rome, and replied "About ten o'clock in the evening;" but Olivieri said it was 11 o'clock, and thus showed a confusion in the evidence of these witnesses. According to Vassali's recollection there were only three carriages, but Hownam thought there were four, and Vassali said they set out at 10 o'clock, while Olivieri stated to be 11. The Learned Gentleman proceeded to state what he considered other contradictions in the evidence as to the stoppages on the road, and the time of their arrival at Sinigaglia, and observed that, as there was a third person in the carriage of her Royal Highness, who, if called, might have proved the fact that Carlo Forti was the courier, and not Sacchi, he thought it impossible to say that Sacchi was contradicted. Sacchi had sworn to a fact, and Carlo Forti, he admitted, had sworn against him; but he had shown that his evidence was contradicted by that of Hownam and Vassali. At page 642 Forti was asked:—"How did Soliman and Polidori go upon that journey?—Soliman on the box, and Polidore came a day after, for he remained in Rome:" whereas, according to Vassali these two followed on the journey. This then, being the only contradiction to Sacchi, letters had been produced to contradict them, and had been proved; but they had been kept back. Neither these letters, nor the letter of De Mont, nor the challenge to Ompteda, had been produced by his Learned Friends; and he would ask, what caused the contradiction of these witnesses when these letters, which were in the possession of his Learned Friends, and had been proved were not produced? There were other witnesses who might have contradicted the witnesses for the Bill; there were other servants; there was the Countess Oldi, who might have been called; but his Learned Friends had thought fit to close their case without having called that witness. Then what other case had he remaining to state?

That of Rastelli. Oh, fortunate case of Rastelli for the Queen! His Learned Friends had called Lieut. Flynn, and he had been blown to atoms by his cross-examination. They had called Lieut. Hownam; but Flynn's admissions were nothing to his. They then called Mr. Grimeville Sharpe, and after him they made a diversion on what was said as to Rastelli: on which he begged permission to say a few words. Their Lordships would recollect Rastelli's cross-examination as to his conduct towards witnesses, not one of whom had been called, but two other persons had been called who had not even been mentioned to him on his cross-examination: Carolini and Pomi had been called, whose names had not been mentioned to the witness, and on their evidence a case of conspiracy had been set up. He had heard it said that the Queen was subjected to a great disadvantage in consequence of the absence of Rastelli; but in his conscience he believed that his absence was a greater advantage to her than she would have derived from his presence. It was open to his Learned Friends to have called other witnesses on this part of the case; but they thought proper to stop with Pomi and Giarolini. In fact their ship was sinking under them when this fortunately occurred. They had called some English witnesses to speak to character, not to facts, with the exception of Sir William Gell; and then they had begun to call others to speak to facts. But Mr. Hownam had frightened them from proceeding further. Then came the whole account of this conspiracy, and of the conduct of the Milan commission. That was the moment to introduce it, when Rastelli happened to be absent. After the evidence which their Lordships had heard on the subject, and which Mr. Denman had, he thought, irregularly referred to (because it was matter before their Lordships, but not a part of the evidence in this case) for the purpose of attacking Mr. Powell, and through him, the Milan commission; after that evidence, he would ask their Lordships if they believed, however mistaken Mr. Powell had been in judgment, and however indiscreet as he certainly had been, that he wished to remove Rastelli. Although it had been said by Mr. Denman that Rastelli had been spirited away, yet he was confident, and he was sure their Lordships would believe, that he had been sent away in the full confidence that he would return. If Rastelli had been here, would he have been called by the other side? See the case of Sacchi! When Sacchi was going to be recalled, Mr. Brougham had said that it was not the proper time, and had declined going into the alleged contradiction then. This case of Sacchi proved the use his Learned Friends would have made of the presence of Rastelli; and therefore he repeated the observation again, that the absence of Rastelli was a greater advantage

than his presence; for, if he had been present, they would have been told to stop the evidence, as in the case of Sacchi, when ready to be brought to the bar. Then the Milan commission had been attacked. No one could doubt that in such a solemn inquiry as the present, it was the duty of those who instituted the investigation to be guarded as to the sources from which they derived their information, and accordingly the best and most respectable individuals, had been intrusted with it. Mr. Cooke, who was at the head of the commission, had long been known as an individual of the first respectability in the court where he practised; and many of their Lordships probably knew that he had long held an important situation as a commissioner of bankrupts. To him, their Lordships knew, were referred from time to time those little litigations which would otherwise have gone on between individuals. A more respectable person than Mr. Cooke could not therefore have been selected. Of Col. Browne he knew nothing personally; but from all he heard of his character he had reason to believe him to be a man of strict honour and of the highest respectability. Then, as to Mr. Powell, what had been said of him? That, having been one of the commissioners at Milan, he had been called to assist in conducting the case for the Bill here. Was that a reason? Had not Mr. Vizard, and very properly, examined the witnesses before they appeared at their Lordships' bar; and was he, therefore not a proper person to assist his Learned friends on the other side? He submitted that Mr. Powell stood as fair as any man could do. He had acted indiscreetly he admitted, but conscientiously; and, therefore, his Learned Friends had not acted right in introducing those topics to operate on their Lordships' feelings, and on the feelings of the public. He would next direct the attention of their Lordships to a contradiction that had been insinuated against the testimony of Rastelli. He had been cross-examined as to a conversation with Vassali, in which he was supposed to have admitted his having been discharged for improper conduct; but in answer he denied the charge, and stated the cause of his discharge. Vassali was called, and not a word was asked respecting this conversation; therefore he (the Attorney-General) was entitled to assume, that the testimony of Rastelli could not be contradicted. He begged again to allude to one or two points which deserved the particular attention of their Lordships. Ragazzoni's testimony had been attempted to be contradicted by a man of the name of Guggiari. Ragazzoni stated that he had been at work at a grotto in the Villa d'Este, page 228. No attempt was made to contradict the fact of his having been at work in making a cornice to a round room. The questions in cross-



examination were all confined to the manner in which he had been examined before he came to this country, and how he came over to this country. Their Lordships would be so good as to attend to his answer to this question:—

“Are you to be understood that those two figures were in the room next to that which you were at work? They were behind the room where I was at work, by ten or twelve yards.

Now their Lordships would attend to that answer. The witness hearing persons coming into the adjoining room, went down and stood behind the pilaster, of which their Lordships had heard an explanation. This witness was to be contradicted by a plan; yet, although plans were made at the Villa d'Este by Ratti, who lived at Milan, Guggiari produced that magnificent plan which they had seen. Why had not they come prepared with a plan made on the spot? Guggiari stated that the grotto was as long as the room in which their Lordships now sat; from this they would see the perfect accuracy of Ragazzoni in stating that the figures were behind the room in which he was at work by ten or twelve yards. That there were figures of Adam and Eve, with leaves and wire, was admitted. Guggiari, pages 785 and 786, said “the statues were in the grotto,” and described the rooms.

Did you see a man at the Villa d'Este to take plans of different places? I have seen several persons belonging to Government taking drawings and plans, but this I do not know.

Did you not see an architect, of the name of Ratti, employed in taking plans at the Villa d'Este? Yes, I have.

Did you not see him within a month or six weeks? It is more: it is about three or four months.

So that their Lordships saw that Ratti had been employed in making plans for the very purpose. Why were they not produced?—Why, but for the best of all reasons—that they would have confirmed the evidence of Ragazzoni? In page 793 another witness was examined in order to contradict Ragazzoni—he meant Giarolini.

“Did the square room join to the octangular room? Yes.

“Was the square room or the octangular room nearer to the statues? The octangular room.

“From the place where the scaffold was set up, in order to work at the cornice, could any person see the statues of Adam and Eve? In no way could these statues be seen, because the passage is all winding.

“Do you mean the passage from the square and octangular rooms towards the room in which the statues stood? First, coming from the octangular room, there

comes another room, and then another passage, and then another room, where the statues were.”

He (the Attorney-General) said, therefore, without an accurate plan, how loosely was all this evidence given, from memory which did not agree one with another! Their Lordships saw that, when Ragazzoni had been called, he had never been cross examined as he ought to have been. He, therefore left his testimony confidently in the hands of their Lordships, together with the evidence of Lanino Guggiari and Giuseppe Giarolini. There was no contradiction, and, at the most, only some confusion. Here they had a witness who swore to a positive fact, whose character was not impeached, and who was met only by evidence respecting places, and no plan of these places. There was one other case to which he requested the attention of their Lordships before he should call their attention to some general points, to which he would advert before he would conclude. In pages 423 and 426 they found evidence of her Royal Highness kissing Bergami in a boat. To contradict this they called a man of the name of Maggiore, pages 922 and 923. This man swore that her Royal Highness was always accompanied by the prefect of Como, and a magistrate called Podesta Parri; yet when it turned out that the prefect and the Podesta lived at Como, he then admitted that they did not accompany her. The first answer of this witness is, “For the most part there was the prefect, &c.” page 903. The second question and answer are in page 924:—

“Do you mean to say, that they accompanied her Royal Highness from the theatre of Como to the Villa d'Este every night? I cannot say that they always accompanied her Royal Highness from the theatre to the Villa, for sometimes they stopped at their own house; but for the most part in the boat there were many Gentlemen.”

He swore only that all must have seen who looked that way; and all their Lordships had was that the kissing was not seen by others. As to the bathing in the Brescia, there was some confusion at first upon that subject; but it was not in the Brescia, but behind a bank, that the bathing took place. There were the contradictions attempted on the other side. But what had they not attempted to contradict? Yes, there were most important facts which they had not attempted to contradict. One was that indecent exhibition of Mahomet. The evidence upon this subject he referred to in pages 30, 149, 246. There the witnesses had sworn to what he could only characterise as a most indecent exhibition. In pages 940, 950, Vassalli said he had seen the dance of Mahomet, and that there was nothing indecent in it. But what

signified what had been seen on other occasions, and at other times? His Learned Friends felt that he had proved this point to demonstration, although he had been much abused for his opening of it, and they called Mr. G. Sharpe to give evidence as to a dance at Calcutta. Because a dance at Calcutta was not indecent, *ergo*, it was not indecent at the Villa d'Este. They might as well have given evidence of a minnet dance. Sir Wm. Gell, whose knowledge of manners was so much celebrated, and Mr. Hownam, catching it from him, said, that it was not more indecent than what, he believed, was called the *Bo leio*; but Swinburn said that this dance was so indecent, in Spain, that no woman of delicacy could witness it. What signified the dances at Calcutta, and in Spain? The fact itself was what their Lordships had to attend to. Dr. Lushington had, indeed, entertained their Lordships with a description of the entertainment it would afford at Drury-lane; but he should be very sorry ever to see it exhibited in this country. Was there any contradiction as to the balls given at the Barona? and to whom? To persons of the lowest description. "O," said Mr. Denman, "that was the affability and condescension of her Royal Highness, a desire to give pleasure to all about her, and no more than was done by persons of rank in that country."—But this was not her own house, but Bergami's: he was the host, and she joined in those amusements with him, not to please her tenants, but to gratify him. Pomi swore that they were attended by the flower of the nobility and one of these was the innkeeper's daughter. (*A laugh.*) There was a person, one would have thought that would have been there, closely connected with Bergami, but, alas, she was the only one that was never to be present at those amusements. No, she was never allowed to join—she was the only person not admitted to their revelry—she was always excluded—she must be away from her own home, and be excluded as long as royalty was there. He was stated to have exaggerated when he opened this as a disgusting scene of licentiousness; but there was a conversation which, if admitted, would have borne him out. Persons were stated to have retired—he could not have inquired for what purpose. But if her Royal Highness, entered into revelry with peasants, persons of the lowest description, where no ladies were present, (the wife of Vassali was not there, he thought their Lordships would be astonished when he called to their recollection that Pomi said of one lady, "O she is not a prostitute," 865 and 863. This showed what was lurking in his mind. He expected such a question, and therefore said, "she is not a prostitute." (*a laugh*) But the Barona being Bergami's property was confirmation strong.

Mr. Denman.—There is not a word of evidence that the Barona belonged to Bergami.

The Attorney-General.—Was there any evidence that it belonged to her Royal Highness? Was it ever surmised that it was not the property of Bergami? But he cared not, it was his residence, and he was the person in whose employ Pomi was. What facts, then were there which the defence had not touched? But, while here, he would say that he could not help thinking the theatrical exhibitions disgraceful. Mr. Hownam had a most convenient memory: he did not recollect her Royal Highness acting *Columbine*; but he did recollect her Royal Highness playing an automaton; and of what description? "A woman that could be wound up to any thing." (*a laugh*) Need he dwell on the meaning of this? She acted *Columbine*, as proved by De Mont. Though his learned friend treated this as a subject of laughter, he thought her Royal Highness's acting so unbecoming and degrading. De Mont stated, too, what she heard said by her Royal Highness and Bergami. He would not dwell on the most indecent familiarities in the garden, proved by untouched witnesses. He already remarked on Bianchi's evidence as uncontradicted. So was Maino's, page 230; and Lucini's, 400 and 401; and Galdini's, 395. They had been amused by Dr. Lushington's Italian minnet; he could, in reply, set off to this the English flash of lightning of Sir William Gell. In 390 Finetti spoke to walking arm in arm. Their Lordships' would have been struck with this at first; but it became lost in the mass that was heaped on it. So was the circumstance of the canoe regarded till Lord Guilford proved it. In 393, 395, 402, 403, were untouched proofs of kissing and carressing. He had enumerated those pages to which no contradiction was offered rather than read the evidence, because he knew how anxious their Lordships' would examine all the evidence. He believed he had now gone over the case as made out for the prosecution; he would now call their attention to the case on the part of the Queen.

The LORD-CHANCELLOR, at the suggestion of Lord Liverpool, asked if the Attorney-General wished to pause here.

The Attorney-General said he could go on. He was sorry to fatigue their Lordships'. (*hear, hear, from the ministerial side.*) The first witness, Colonel St. Leger, was called only to grace the cause, for he saw nothing. Lord Guilford and Lady Charlotte Lindsay had proved—what? The latter what she had seen for twenty-four days; the former dining at Villa d'Este, at Milan, and at Genoa. Lord Glenbervie's evidence was to the same effect, that he had dined with her Royal Highness at Genoa. Lord Landaff was called to prove something more. He dined with her Royal Highness at Naples. On this he had remarked before. But he was to prove the custom of the country, as to gentlemen visiting ladies in their bed-rooms. His own

experience and his own practice excited a smile. "My Lord Landaff then has seen ladies in their bed-rooms in a morning, and that is evidence that gentlemen visit ladies in their rooms." But if noblemen might visit ladies in presence of their families and friends in bed-rooms, was there no indecency in a coarier being admitted to the bed-room of her Royal Highness while her *Mlle de chambre* was excluded? Next came Mr. K. Craven and Sir W. Gell. The impression on his mind at first was, that Sir W. Gell had been an inmate with her Royal Highness at the Villa Brande, 559, 560, 563, 565; but from the testimony of Carrington it appeared that he slept not a single night in the house, but at an hotel a mile and half distant. He dined very frequently; and that was the testimony of Sir William Gell. Dr. Holland was next called, and he also was a witness of character, and he proved that he saw nothing improper. But there was a fatality in the English evidence, that it extended over but a very short time. Dr. Holland left soon, and it was singular that it was at the suggestion of her Royal Highness. It was the same with Sicard, that old and faithful servant. He was sent to England, and expected to be sent for again; but he was never called back, and he only went in consequence of the death of his late Majesty. Then came Flynn and Hownam. Hownam put his credibility on the test, that though he saw her Royal Highness arm in arm with Bergami, though he saw him at her table, though he saw the exhibitions at the Villa d'Este, he thought there was nothing indecorous. He denied the fact that he had entreated he should not be admitted to the table, and at last stood up to not recollecting having said so to Captain Briggs. Captain Briggs, high in his Majesty's service, never touched by the breath of suspicion, was called, and said that Hownam had stated it to him. It was either true or false that he had so entreated her Royal Highness: if true, it proved the sense he had of that act at the time; if false, it proved that he felt degraded by it, and involved in common disgrace with her Royal Highness; and that to clear his character with a brother officer, he said that he had entreated her Royal Highness. Take it either way, it was conclusive of Hownam's feeling on the subject. He (the Attorney-General) could make many allowances for Mr. Hownam, who had been promoted by her Royal Highness, who had a pension from her, and who must feel attached as the son of an old servant in the family. Let him now call their Lordships' recollection to the pledge which had been given by his Learned Friend, Mr. Brougham; and, that he might not mistake it, he would now read that gentleman's own words—"As to Mariette, the Queen has hitherto never known any thing to her prejudice, and she will, therefore, be pre-

vented to your Lordships." The fact, however, was, that his Learned Friends did not to call her. Such was the manner in which his Learned Friend had entered his pledge that Mariette should be produced at their Lordships' bar. How that pledge had been kept the House had seen; and let it now examine the different and discordant reasons assigned for its violation by the Counsel on the opposite side. He (the Attorney-General) would observe, upon this point, that he had foreseen what was coming from the very manner of Mr. Brougham. He foresaw that his Learned Friend, with great ingenuity certainly, was diverting their Lordships' attention from the real state of this case, after the close of Lieutenant Hownam's evidence; and their Lordships could not but recollect that, after the departure of Rastelli, and the production of Baron d'Ende's letter, Mr. Brougham had announced that they would withdraw from that part of their case, and they would not call many more witnesses. Then followed the speeches of Mr. Denman and Dr. Lushington; and the reasons they had assigned were certainly the most extraordinary which had ever been addressed to the House at that bar for the nonproduction of witnesses. Their hypothesis was, that the testimony produced in support of the Bill was false; that the whole proceeding was founded upon a slanderous conspiracy; that the witnesses in favour of it were suborned, and not to be credited; and in contradiction to them, they said, "We will produce witnesses who shall demonstrate their falsehood." But, unfortunately for them, Lieutenant Flynn had flinched under his cross-examination; he had shrunk from the proof; he could not stand that which was the test of truth, and therefore, too, it was that Mariette and the other witnesses were not to be produced at their Lordships' bar. They were not to be produced, because his Learned Friends were alarmed and apprehensive, lest, although those witnesses were to be sworn to speak the truth, and nothing but the truth, they might very likely let slip something in the course of examination unfavourable to the Queen's case. But if a witness had the truth in him, what had he to fear? All the arts of the advocate could not extort from him that which was false, for he came armed in the armour of truth; and all the terrors of a cross-examination vanished before the consciousness of deposing to the truth, and nothing but the truth. But the truth, and nothing else, would not do from those witnesses; for, after Lieutenant Hownam's examination, his Learned Friends had felt that they who deposed in that way, so far from aiding, were rather injuring their case; but so much for the excuses given by them, to account for their not producing such witnesses. Another excuse, however,

still more extraordinary, was started the preceding day, (Friday), in the middle of his the Attorney-General's reply; and one which, he presumed, had never before been heard of. It was, that a communication had been just made to the Queen's Attorney-General; upon which he directly founded an application, and which he thought proper to adduce as a reason for, and confirmation of, his conduct relative to Mariette. If Mariette had not been produced by his learned friends under this sort of apprehension that she would not speak the truth, let them at least call those others to whom the same fear could not and the same doubts ought not to attach. Here he would apologize to their Lordships for the frequency with which he had been compelled to advert to the mention of Bergami. He now mentioned that name, only for the purpose of making one observation, which was upon a remark of Mr. Denman's, in answer to the inquiry why Bergami himself had not been called. Mr. Denman, on that occasion, thought that no instance was ever heard of, in which a person charged with having committed adultery had been cited to give his evidence in a proceeding instituted for the purpose of investigating or trying the charge. Such a case, however, was that of Campbell, in 1799, which was a divorce case, in which Major Hook, the supposed adulterer, was examined at their Lordships' bar in support of the female. But not only was Bergami not produced as a witness at the bar, he had not even ventured to accompany to this country that female whom he was represented to have so faithfully served; and, after journeying with her in all her travels, he was not here now to assist his mistress in the hour he was most wanted. But all the family of Bergami had been dismissed also; and not dismissed because of their number, it was to be presumed, because all the family of Bergami had been received. The change was curious; but he (the Attorney-General) would ask, why would all this have occurred if her Royal Highness were really innocent? If there was really no impropriety in these attentions, if there was truly nothing in them from which guilt ought to be inferred—if Bergami was indeed this faithful servant which he had been represented to be—why was he not brought to this country? Why did not her Majesty come forward and say, "I have been deserted by my suite; I have been left by all my English servants; but this man has kept to me, faithful and unchanged, in all my difficulties, and has protected me in all my dangers: and for this it is that I have promoted and honoured him—I have given him the rank of chamberlain;" for chamberlain it was to be presumed Bergami still was. They had not heard of any other chamberlain, but they had heard of a vice-chamberlain to her Royal

Highness. Upon the subject of Bergami's promotion, he would just call their Lordships' recollection as to what had been stated by Mr. Brougham—"Oh!" said he "you have been left in happy ignorance of all that has operated on the Princess's mind; that at the time he was hired, the rank of chamberlain was promised him by the Marquis Gizilieg-hiri. Their Lordships were told that it was to be proved that he was not only honoured with the confidence, but had dined at the table of General Pino—a fact which their witness, Colonel Tuille, unfortunately could not recollect. Sicard, so far from saying that any hopes were held out, or any promise made, to Bergami, of the advancement to which he had since arrived, deposed that he was only hired in the situation in which he went to Naples, and the promise amounted to this—that if on the arrival of her Royal Highness at Naples there should be a vacancy for a servant in the household, he (Bergami) should have it. But their Lordships had been kept in happy ignorance as to the nature of his services. What was there at Genoa, at Milan, at Naples, to call for all that further favour which was shown him, to allow of his introducing into her Royal Highness's house and service all his relations—Faustina, who, at Genoa, was not known to be his sister; the Countess Oldi, who, at Genoa, was not known by Dr. Holland to be his sister? Why was all this secrecy kept up? Why, then, was Louis Bergami to be admitted into her Royal Highness's service? What! her Majesty, who never before let any servant dine with her, at her Majesty's table, suddenly permitting not only Bergami, but so many members of his family to dine there. And were not these grounds of inference and suspicion? He (the Attorney-General) said that they were the strongest grounds; and, when coupled with the other facts deposed in evidence, must furnish in their Lordships' minds a clue, by which they might trace the true motives of the Princess's conduct. But if there were other reasons for not producing Bergami, why had not the Countess Oldi been produced? It was most extraordinary that, throughout the whole course of the evidence offered on the other side, there was only one female witness called, and she a witness of the conduct of her Royal Highness for 24 days only. Lady Charlotte Lindsay was produced. Why, if she was produced as the dame d'honneur who was in that capacity for so short a time, why was not that person called, who had also been with her Royal Highness as dame d'honneur from the period of her English suite's quitting her at Milan up to her arrival in this country? Was it meant to be said that that lady of honour was not to accompany her? Was her Royal Highness to be left without one? She travelled up, then, to St. Omer's, without one female attendant in



the capacity of lady of honour. The Countess Oldi, of all persons, was the one whom their Lordships might have expected to be produced on the other side. Of the Countess Oldi there could be no suspicion. She was of a family against whom there could be no suspicion. She was of the family of Bergami, of which there could be no suspicion! She it was who Mr. Williams had said should be called to contradict the facts charged to have occurred in the journey from Rome to Sinigaglia. But were these all who might have been placed at that bar? Why was not Austria produced? Where was he? He was now 19; his name was among those of the witnesses in attendance. He could have contradicted many facts of the testimony on the other side. Where was Hieronymus?—At Brandenburg-House, but by no means forthcoming. Where was Schiavini?—He was also in the country. But though he performed many important acts about the tent, he was yet not produced. Where was Ludovico Bergami, who waited at table, his brother being a courier, at Genoa? Why was not he produced? Where was Cameron? Where was Lini, the Jew harper; He had now named about eight persons; but there was Carlini too, who was on board the polacre; why was not he produced, and the whole family indeed of the Bergami's—Faustini, the mother; Rappi, Bernardo, Francesco? Not one of these had been produced, although his Learned Friends had undertaken to contradict every part of the case for the prosecution. They called, indeed, Lieutenants Flynn and Hownam, and then Vassali; but either they have such weak nerves, or such treacherous memories, that his Learned Friends thought their other witnesses must not be produced at their Lordships' bar, and therefore they had been withheld. Now this spoke more in condemnation of her Royal Highness's conduct than any thing else, after all the absurd, the futile, the unsatisfactory reasons which had been adduced for the omission of witnesses, and which applied only to the case of Marietti, and not to any one else. The Learned Gentleman then apologized to their Lordships for trespassing so long upon their indulgence, when he was aware that their attention was exhausted by their previous continued application to the same subject. His duty had been an anxious one. It had been to bring before their Lordships the whole evidence of this case. He had strictly confined himself to that duty; and he trusted that they would acquit him, in the course of these his observations, of having made any unnecessary appeals, either to their feelings or their passions upon this case. He had done that which was his duty; he brought the evidence before them to the best of his ability, and commented, as well as he could, upon that evidence which had been offered. This was his duty, but it seemed

that there was another thing, and another course which an advocate for an accused should adopt; and this had just been discovered by Mr. Brougham. His Learned Friend had argued that an advocate for an accused was to defend his client at all events; and separating the duty of an advocate from that of an honest and independent citizen was to go on, regardless of the dangers he incurred, and reckless of the consequences, even to his country. But what was the duty imposed on his Learned Friends? To protect the interests of their client, to guard the innocence of the Queen, and to establish it against the charges by which it was impugned. This they had attempted to do. But had they confined themselves to that duty? No; for the Counsel had been permitted, for the first time at their Lordships' bar, to launch into invectives against the constituted authorities of the realm. Modern precedents were to be sought for, to justify the course which they had been allowed to adopt; and the annals of corrupt Rome were to be ransacked for examples odious enough to serve the purposes of their denunciation. The cruellest of tyrants, the most detested of all antiquity, was to be brought forward as a supposed parallel to the King. The throne itself was not spared; nor was this all—their Lordships were not spared. No one was to be exempted from the extraordinary observations which had fallen from his Learned Friends. Their Lordships would—he would not say pardon them: but perhaps some excuse was to be alleged for them in their trying situation. If the Queen, however, was innocent, her innocence was to be established in some other way. If she was innocent, it was not invective and virulence which would prove her so. Innocence stood secure, always in its own strength: it wanted no aid from vindictive aspersions. Whatever had been the eloquence of those invectives, during the time that the question of that innocence was to be examined, he could not help thinking that the path of duty was to be preferred by his Learned Friend. But it seemed, by the conclusion of Mr. Brougham's address to their Lordships, that the public had already passed their verdict upon this case. The public had passed no verdict. There was, indeed, a part of the community who had attempted to do so: who had, by the most base, the most insidious means, endeavoured to deceive the best and most deserving part of the nation—who had endeavoured to wrong and to betray them. These, while they had the cause of the Queen in their mouths, had another cause in their hearts. He would not say that he believed it, but it must pain every one to believe, that any countenance could be given to such a party by the illustrious person accused. Now, not only had all this been done out of doors, but, their Lordships had been told, in magnificent

language, and in a manner he had rarely seen surpassed, and which, at the time, he had no doubt produced a very considerable effect—that their judgment, if it went to degrade and dethrone the Queen, would be the last and only one they could pass, which would fall in its object, and be productive of endless ill consequences: and their Lordships were told, and attempted to be persuaded, that, as the only means of preserving the honour of the crown, and securing the tranquillity of the country, they were called upon—at all hazards, and whatever might be the contrary bias of their own opinions—to pronounce a verdict of acquittal; because, forsooth, such a verdict the state of the whole country demanded—in the opinion of his Learned Friends. God forbid that such a topic should ever have any weight with their Lordships: that any consideration should sway them from their duty; that they should desert the persons of high honour and character, who were interested in this case, or the exercise of that discretion which had hitherto commanded the respect and concurrence of the country. “The throne,” concluded the Learned Gentleman, “will be best protected, and the altar best defended, by a judgment passed by your Lordships according to evidence, the evidence which has now been offered to you. If that conclusion, my Lords, be what I have endeavoured to show, that the nature and amount of the evidence go to establish, and which, I think, it will inevitably be, a verdict of guilty, I am sure your Lordships will pronounce it with confidence; that it will be satisfactory to your own consciences, and, sooner or later, that it will be satisfactory to the whole country:”

### SOLICITOR GENERAL'S SPEECH.

The Solicitor-General addressed their Lordships.—“Never did an individual appearing at their Lordship's bar, stand in more need of the extreme of indulgence than myself upon this occasion. I have, my Lords, to address you upon a subject already so completely canvassed and exhausted, that I can scarcely expect to throw any new light upon it. I have to address you when I am, myself, in my mind and faculties, jaded and exhausted by the long-continued application and confederation of the same ideas. I labour, too, my Lords, under another difficulty, no less great than those which I have pointed out, namely, that I am to follow my Learned Friend, the Attorney-General, who, in his address to your Lordships on this occasion, has taken such a minute, and at the same time such a comprehensive view of this important subject; who has addressed you in such a powerful, such an impressive, such

an irresistible speech, as must of necessity carry conviction to the mind of every body who hears it.” The Learned Gentleman proceeded to say, he had to follow upon the same subject, presenting itself without any alteration whatever of its parts; and he feared that almost every observation which he could by possibility offer to them had already been, in a great measure, submitted to their Lordships. Under these circumstances, were he to follow his own feelings and inclination alone, he would not say one single word upon the case. But he had a duty to perform, the discharge of which, (however painful, and however personally irksome to himself the task), he must endeavour to go through with manliness and with fortitude. They were there, engaged in the consideration of a subject, perhaps one of the greatest importance that ever agitated the feelings of this empire. He was commanded to assist his Learned Friend in the discharge of his duty; and he must not shrink from the office, but endeavour to perform it to the best of his power and ability, which upon such an occasion, he could command. When this case was originally offered to their Lordships, it must have been perfectly clear to every individual conversant with the proceedings of a court justice, that from the wide range of facts, the number of witnesses to be called, the period of time over which the transactions extended, there must be a considerable body of conflicting evidence. His Learned Friend and himself, in considering the subject, were aware that this must of necessity be the case, and they were prepared at the same time to expect it. Knowing, however, the truth of the story—but being perfectly satisfied that, in the situation in which they stood, they might have to deal with evidence which was false—they felt that in the close of this inquiry, although there might be conflicting evidence in some parts of it, the result would be, that the main features of the case, the great outline of it would be established by their own evidence, and, in all probability, by the evidence adduced on the part of the defence, so as to carry the plainest conviction to the minds of all. It was not his intention, after the elaborate speech of his Learned Friend, addressed, as it was, to every part of the subject, to go in detail through the great mass of evidence before their Lordships. He would take a much narrower compass; and, in observations which he was about to address to their Lordships, he should discharge from his view sedulously and attentively, every part of the case upon which there was any conflicting evidence. He should do so; but their Lordships would not discharge that conflicting evidence from their view, because it would be for them to judge between the depositions. But, as his Learned Friend (the Attorney-General) had sifted the evidence so minutely,

as he had laid the case so completely before their Lordships, he (the Solicitor General) conceived that he should best discharge his duty to them by confining his view to a particular part of the case in the way which he was about to point out. The course which he meant to pursue, then, was to select and lay before their Lordships those facts which were not disputed, or only feebly contradicted on the other side; first, those facts which were established by witnesses, who had not been contradicted in the course of this inquiry, and whose characters had been contradicted in the course of this inquiry, and whose characters had not been impeached—those facts established by witnesses who might have been contradicted, whom his Learned Friends had been endeavouring and desirous to contradict, but who had not been so refuted in the progress of this proceeding; and, ultimately, whose credit had been afterwards established by witnesses called on the part of the defence. In this view of the case he steered clear of every objection that had been made upon the other side: and their Lordships, looking at it in this light, with the body of evidence all tending one way, and unopposed, would see that a case was made out so clear, so complete, so distinct in all its parts, as to carry conviction to the minds of those even least disposed to be convinced upon this momentous occasion. There was no feature of this case which could be too frequently adverted to. It ought to be considered with the greatest precision, because it appeared to him to lead directly to the conclusion of the inquiry. He did not mean to say that, taking that fact alone, their Lordships ought to infer guilt from it; but it was, as he had said, a feature so important in this case; rendered so important by the course adopted, and the means taken, and the attempts made to explain it;—these were in themselves so inefficient and so futile, that he felt bound to express it again upon their Lordships' attention. Their Lordships would have anticipated that he alluded to the elevation of Bergami. He needed not recapitulate the facts on this part of the case. Bergami was hired as a courier, as a courier only, on the journey from Rome to Naples. In a few months afterwards their Lordships would find him elevated to the rank of chamberlain or equerry—made a knight of Malta (a very high and great distinction); a Sicilian Baron; a Knight of the Holy Sepulchre, and in possession of a very considerable estate in the neighbourhood of Milan. These were facts not disputed; it became, then, very material to consider how they had been replied to—how met on the other side. His Learned Friends had felt the weight of them, and in the discharge of their duty had endeavoured, of course, to give some explanation of them. Let their Lordships now inquire a little into that

explanation; let them examine it, and see how completely, how entirely, it had failed. Mr. Brougham, in the course of his address to their Lordships, had stated that this was all very natural—that Bergami was born a gentleman, but was reduced in his circumstances, merely by the events of the French revolution—that he had sold his estate to pay off his father's debts. Such was the statement of his Learned Friend (Mr. Brougham). If the facts were true, every circumstance stated might have been established in evidence, and would have been so of necessity. His Learned Friends on the other side had spent entire days in making a distinction and drawing a comparison between the speech of the Attorney-General and the evidence of the case; but, when he came to contrast their statement with that evidence, the facts were still more wide of their exposition than in the speech of his Honourable and Learned Friend. What, however, was the evidence which the other side had laid before their Lordships with respect to this important fact? They called Colonel Tuille, who gave this account of Bergami;—He said that he was a sergeant, or held a situation equivalent to that of a sergeant, in the French army. He told their Lordships that Bergami was the private, but familiar, servant of General Pino; and that they had it uncontradicted in evidence, that, while in the service of General Pino, he received wages at the rate of three livres a day, waiting regularly at table. This was the evidence relative to the previous situation of Bergami—a previous situation which was granted on the other side, but accounted for by its being said that he was born and destined to be a gentleman, but was reduced to necessities. If statements were made so entirely differing from the truth, what would his Learned Friends say if he (the Solicitor-General) referred to the confinement of Bergami at Lodi, and stated what was the real cause of that confinement? Now, he would go a step further. His Learned Friends said, that though Bergami was a courier he had the manners of a Gentleman; and Mr. Denman upon that principle accounted for his elevation. He (the Solicitor-General) begged leave to refer the House to the evidence on this subject, and, among others, to that of Sicard (at page 600), who knew Bergami well, and of the correctness and exactness of whose statement they ought to have no doubt. He said, in the passage referred to—

“Did he appear superior to the situation in which he was hired—He was not quite so chatty as the Italians in general were.

“Is the single circumstance of his not being so chatty as common Italians were, the only circumstance that distinguished him from other couriers?—His behaviour in general, but he behaved very well in my opinion.

"Did he appear superior to persons in his situation?—Not particularly: he behaved very properly in his situation; civil and obliging and attentive to his duty.

"Did you consider him too much of a gentleman to act in the situation of a courier? No exactly so, &c."

This was the description given by Sicard, a witness called on the other side, with respect to the manners of this individual—an evidence which had been relied upon as containing some of the reasons of his (Bergami's) elevation. But this description did not rest solely upon the evidence of Sicard, who was not in a situation of life to form, perhaps, a very correct judgment upon this subject.—They had another witness, a person more likely to be correct, and well qualified to decide upon the propriety or elegance of manners—he meant the Earl of Guildford. The evidence of this Nobleman was at page 510. Their Lordships would recollect that the Earl of Guildford dined at the same table two different times, and had good opportunities, therefore of forming his opinion:—

"From the opportunities your Lordship had of observing the behaviour of Bergami, could you form any opinion of his being superior to the situation in which he had formerly lived? No, it did not strike me that he was."

(This question and the answer were read, at the request of the Solicitor-General to the Queen, to his Lordship, and he stated that the answer was correct.)

His Learned Friend on the other side did not exactly like the last answer at the time, and caused it to be read again; which was done, and the answer given by his Lordship. So much, then, with respect to the manners of Bergami, as proved by these two witnesses called on the part of the defence. Another witness, Sir Wm. Gell, was called for the purpose of speaking to the same subject. Sir Wm. Gell had seen him upon one occasion; and on his evidence he would make no particular comments, but that it appeared to him (the Solicitor General) that this gentleman's evidence, as contrasted with that of the Hon. Keppel Craven, in respect to the whole of the facts, was rather too figurative in the expression. He begged to refer the house to page 555 of the evidence. With respect to the manners of Bergami, they had, indeed, heard from Sir Wm. Gell that his demeanour was rather more respectful than was necessary; he would not sit down in the presence of Sir Wm. Gell; Bergami became quite overawed in that gentleman's presence. In p. 559, Sir William saw nothing forward or obtrusive in his manner; quite the reverse; he was remarkably attentive, and would have handed Sir William down stairs with the lighted candles in his hand, if he were permitted. So

much for the manners of this Bergami: yet upon passing hastily up the stairs, it seemed he recognized his old fellow-servant, Whitcombe; he pressed his hand as he passed with an affectionate recollection. It was necessary to account in some manner for the extraordinary elevation of Bergami, and a show of defence was attempted to be made by an allusion, in the statement of his Learned Friend (Mr. Williams), to the high merits and extraordinary services performed by this servant to his mistress. He (the Solicitor General) had listened, their Lordships throughout the evidence had listened, for the smallest proof of these extraordinary services, which were to justify this promotion; but to listen was in vain, for throughout the whole defence not the slightest evidence of such a description was offered; not the smallest attempt at proof in support of his Learned Friend's statement. The only thing said of Bergami's conduct by any witness was his respectful obedience to her Royal Highness." His respectful obedience, then, formed his claim to the honour of being made a Knight of Malta, a Sicilian Baron, and Grand Master of the order of the Holy Sepulchre. One of his Learned Friends at the other side had exclaimed, respecting the promotion of Bergami, "Oh, it resembles more the slow and progressive promotion of a man of merit, struggling against the difficulties which impeded him, than the attachment of ardent and sudden love." What was there in the evidence to justify this exclamation? or, was there not every thing, on the other hand, to show that the advance of the man was as rapid as it was extraordinary? As some answer at least must be given to the presumption which this circumstance so naturally excited, it was said, and alluded to in the evidence, that promotion was promised when Bergami was taken into her Royal Highness's service. Sir William Gell, who was the most favourable witness upon this point, had indeed said that, when the Marquess Riveira recommended Bergami to be employed as courier, he expressed a hope that he would be gradually advanced, if he was found to behave well in the family. He took, however, Mr. Keppel Craven's evidence upon that point in preference to Sir William Gell's, because it was more plain, more cautious, and because it was confirmed by Mr. Sicard. Mr. Craven was over and over again pressed by his Learned Friends for an answer that would suit them better than that of merely saying Bergami behaved well. Then followed the inquiry respecting the promise of promotion held out to Bergami when he was taken into the service.—The question, over and over again put, was—"Was there not any thing said about promotion?" The answer—"The Marquis wished that, when the Princess stopped, Bergami might be kept in the service, as out of



livery." So that, in point of fact, Bergami was merely hired as a courier for that particular journey, and the Marquis, who recommended him, merely wished that, when they stopped, he might still be retained in a menial capacity. Was there any thing in the man's history, after all the allusions which were made to his prospects, to entitle him to this advancement? He was originally a servant and private courier to General Pino; being out of place when the Princess was on her journey to Rome, and her Royal Highness wanting a courier, he was taken into the suite as such, and merely for the journey.—But his services were such, that he was retained and advanced to the highest honors; his Learned Friends were driven to talk of his services to justify the promotion, but their evidence went to nothing beyond "respectful behaviour." Their Lordships could not, however, shut their eyes to the fact, that there were no services performed on which any colourable pretext could be founded. His Learned Friends knew, as well as he did, that Bergami had no such claim—his claim was of a different sort. His Learned Friends, whose copious powers of classical illustration were so elegantly shown throughout their speeches, must remember the lines put by a dramatic author into the mouth of a Roman Empress:—

"Threadbare Chastity is poor in the advancement of her creatures—Wantonness magnificent."

There was no reason whatever for doubting that her Royal Highness might have had suitable English attendants, if she thought proper. Did his Learned Friends show that a single individual had been applied to? Not one. Lady Charlotte Lindsay was then near the Princess; Lady Glenbervie was at the time at Genoa, but no attempt was made to solicit the company of her ladyship. It was said that about this very time her Royal Highness was surrounded by spies at Naples, her steps watched, and her most innocent actions misconstrued. Her Majesty was, it was said, apprized of this system of espionage. That very circumstance rendered it still more necessary for her to have persons of unquestionable respectability about her, to vouch for the propriety of her conduct; then she would always have had the best possible defence at hand against any of the attacks of those whom she considered her enemies. Instead, however, of pursuing the prudent course which would have better become her character, what did her Royal Highness do? She engaged in her service the Countess Oldi. What were the qualifications of that lady for being the companion of her Royal Highness? They had it in evidence that her Royal Highness could speak so little Italian, that she was obliged to have Bergami with her, when some alter-

tations were going on in the garden, to communicate her directions to the workmen, as she herself could only speak a few words in Italian. The Countess Oldi did not understand a word of French; so how was it possible they could carry on any conversation together? how could one be a pleasing companion for the other? They had heard a good deal respecting the manners of this lady. Sir Wm. Gell thought her rather a good-looking modest lady. The Earl of Guilford sat next her at table: she was perhaps rather vulgar, but not particularly so; the precise shades of distinction could not be accurately marked. It was also remarkable that great care was taken that she was not to be known as the sister of Bergami. She was to attend the Princess, with whom she could not converse; but there was no introduction of this lady as a relation of Bergami. Why, if there was not some motive for the concealment, disguise this fact? Why keep it a secret at first, from De Mont, from Lient. Hownam, from Dr. Holland? None of these had the slightest idea of her relationship to Bergami. Of this man's family, it would be seen that, no less than 12 or 13 had been taken into the Princess's service: by his relatives and connexions her Royal Highness was beset on all sides, with one most remarkable exception, which their Lordships could not fail to notice, and which had been already emphatically alluded to by his Learned Friend, the Attorney-General; it was, that Bergami's wife never made her appearance where the Princess took up her residence. All the rest of the family, and Bergami's child, were with the Princess; but the wife was kept at a distance; she never could partake of the hospitality of her Royal Highness's establishment; she was the only one of the family who was called to submit to every sacrifice without a murmur. How was it possible to reconcile all these facts with the statement of his Learned Friends opposite, that Bergami's fidelity as a servant was the sole cause of his advancement? It was impossible to put all these facts together without arriving at the conclusion that the degrading intercourse had been carried on which was stated in the preamble of the Bill. He did not wish that any of these facts should be taken singly, as establishing the charge: but when coupled with each other, they formed a commentary which confirmed beyond all doubt every part of the charge. There was the fact of the contiguity of the bed rooms; that was not touched by the evidence for the defence, but was, on the contrary, confirmed by all possibility of doubt. At the Villa d'Este, only a small cabinet separated Bergami's bedroom from that of the Princess, and the other branches of the household slept in a different part of the establishment. An architect had been employed to make for the Princess various plans of the

Villa d'Este, he had made alterations in that residence; he was produced at the bar, but the Counsel for her Majesty did not venture to put a question to him upon the fact of this alteration of the apartments. In allusion to these alterations, his Learned Friend, Mr. Williams stated to their Lordships, that the intention of the Princess, in having one of her household near her, was to guard against surprise, to remove her apprehension against the occurrence of any danger. His Learned Friend had laboured considerably to justify, upon this ground, the fact of sleeping near the Princess's chamber. It might have been for her Royal Highness's protection against the plots which were preparing against her. Just so was the protection given by Sir Henry Hornby to the lady in one of Foote's farces, in the dialogue between *O'Donovan*, the Irish chairman, and *Mrs. Minikin*.

"*O'Donovan*. My lord was obliged to go about his affairs into the north for a moment, and left his disconsolate lady behind him in London.

"*Mrs. Minikin*. Poor gentlewoman!

"*O'Donovan*. Upon which his friend, Sir Henry, used to go and stay there all the day to amuse and divert her.

"*Mrs. Minikin*. How good natured that was in Sir Henry!

*O'Donovan*. Nay, he carried his friendship much further than that; for my lady, as there were many highwaymen and footpads about, was afraid that some of them would break into the house, and so desired Sir Henry to lie there every night.

"*Mrs. Minikin*. Good soul! and he did, I dare say." (a laugh.)

Repeatedly throughout the openings of these proceedings, before their Lordships' and elsewhere, he had heard his learned friends say that, the moment their turn to be heard came, full proofs would be tendered of detestable plots and conspiracies against her Majesty—attempts to break open her bureau, to get at her private correspondence, to pick her locks; but, when their turn came, not the slightest attempt was made to sustain and redeem these promises. Stories of Baron Ompteda had, indeed, been rung in their ears. but so unskillfully was the proof handled, that, though the proper evidence, if the facts were true, might have been had, yet there was no legal proof tendered. The Baron was dead; but there was a blacksmith, of whom so much mention had been made—where was he? Why was not he brought forward to support this statement, if it had any real foundation in fact? During this case by one of those slippery manoeuvres for which his Learned Friend (Mr. Brougham) was so distinguished throughout the proceedings, with his arms extended forward with an air of apparent astonishment and momentary anxiety, he tendered a letter respecting Baron

Ompteda, as if it had only that moment come into his hands. His learned friend, when he made this dexterous manoeuvre, knew as well as any man that this letter could not be received in evidence; and yet, contrary to all decorum, to all propriety, he read the contents of that letter, which he knew as evidence was inadmissible. When his learned friend could not contradict the facts, he always made an experiment of his dexterity. Adverting again to the alteration of the sleeping apartments, so as to facilitate the communication between the apartments of the princess and Bergami—an arrangement which would be found to prevade the whole system of the parties wherever they went—why was there not, in any point, a contradiction established? On board Capt. Brigg's ship the same system was observed: an alteration was made to facilitate the access between the two apartments; and so important was that occurrence felt, that Lieutenant Hownam was sent to Portsmouth by her Majesty, to see how far Capt. Briggs had touched upon that fact.

Mr. Brougham said that there was no proof of Lieutenant Hownam's having been sent with any such intention.

The Solicitor-General denied that he had mis-stated a single fact, though he might draw wrong conclusions as to the course taken by his learned friend. He should next call their Lordship's attention to the polacre scene. Her Royal Highness, it was proved in evidence, had embarked at Augusta; her bed-room was so arranged in its relative position to Bergami's, that the person in one could be seen by the person in the other. A tent was erected upon deck, under which Bergami and the Princess slept. Some difference of opinion prevailed respecting the size of this tent. Lieut. Hownam described it as being about 10 feet by 16, a size which corresponded with the plan. It was indisputable, from the testimony of a number of witnesses, that the parties, unaccompanied by a third person, slept under this tent during the voyage; that Bergami used to hand out the light, when they had retired. The witness who spoke to this fact, which directly led to such an irresistible conclusion, remained uncontradicted, and all the force of his Learned Friends had been directed to show that they were to be excessively remunerated for coming over to give their evidence. The loss which these men were exposed to by coming over at harvest-time was totally overlooked, and the remuneration was calculated as if it were an annual stipend, instead of for a space not probably exceeding three months. Was there any thing, he would ask, in the manner in which they gave their evidence, to justify any aspersions upon their character? It was, for sooth, all Italian evidence, and was to be knocked up the moment two English witnesses were heard in reply. The evidence

of Lieutenants Flynn and Hownam was to set the matter right. They did, at length, give their evidence. It was said, respecting Lieutenant Flynn, that he was a brave man. He, (the Solicitor-General) did not mean to call in question his bravery—it was with his evidence in the case he had to contend, and he would do so freely. In his opinion, then, Lieutenant Flynn felt himself embarked in a cause in which a great deal of passion had been enlisted. He owed a debt of gratitude to her Royal Highness, which he wished to discharge in a way in which he (the Solicitor-General) thought he ought not to have discharged it. There were two or three striking circumstances which clearly showed that he had a disposition to exaggerate, and of this there could be no doubt when his evidence was compared with that of Lieutenant Hownam, by whom he was directly contradicted in some material points. He (Lieutenant Flynn) had stated, that her Royal Highness could not be seen in her bed in the cabin by Bergami from his. Afterwards, on cross-examination, he said he thought so, and subsequently he admitted (as we understood) that he had no means of knowing. Was not this of itself sufficient to show the doubt which Lieutenant Flynn was in, and cast a doubt on all his testimony? Another circumstance to which he wished to call their Lordships' attention in Lieutenant Flynn's evidence was what he swore as to sleeping on the deck. He said he slept on the deck almost the whole of the return voyage, except one night. The object of this was to show that during the whole of that time he was in such a situation as that he could hear all that passed on deck, and of course that he could be the better witness as to what passed with respect to the tent. Now the evidence of Lieutenant Hownam was in direct contradiction to this; and from the circumstance of their cabins being near each other below, Lieutenant Hownam had good means of observing. Lieutenant Hownam then swore, that Mr. Flynn slept on deck only occasionally; that he sometimes took his cot on deck, but was by no means constantly there. He begged their Lordships to observe the motives which operated on the minds of these two gentlemen in their contradictory accounts of this point. Lieut. Flynn, by stating that he was constantly on deck, wished it to be inferred that nothing improper could have taken place in the tent, he being known to be always within hearing. The object of Lieutenant Hownam's evidence was to show, that as Flynn was occasionally on deck, it would be the more necessary that Bergami should be there. He (the Solicitor-General) would not say which of these accounts was true, but certain it was, that one of them must have been false. Another circumstance worthy of notice was, that Mr. Flynn stated he did

not know where Bergami slept, that he had other business to attend to, and therefore could not attend to such matters. Was this credible? Could it be imagined that, circumstanced as he was in the ship, he could be ignorant of where Bergami slept? He was afterwards asked, "Have you any doubt that Bergami slept in the tent?" His answer was, "I cannot say where he slept," and when pressed on this point, he says, "I believe he did not sleep there." How was it possible to reconcile those statements? If what he first said was true, how could he swear to the subsequent assertions? Why could he not have said, "I have a doubt. I looked into the tent and did not see him." Their Lordships would observe how he described the looking into the tent. He could not see Bergami there;—it was dark. Oh, but then there was a light from the binnacle; well, then, the reason why the light was put out from the tent was the fear of the pirates. The binnacle light was then questioned, and he accounted for it by saying it could not be altogether covered; there was not air enough: yes, but larger holes might have been made in the top: this would not do, for the water would come in and extinguish it. What were their Lordships to infer from these statements, but that the witness had found himself entangled in the difficulty of his statements, and that he could not, with consistency get out of them. As it had been justly observed by his Hon. and Learned Friend, the Attorney-General, it was not in the main points of his testimony that a witness could be entangled. To that he would have made up his mind and adhered, but if taken out of the main story, and led into by-ways, it was only there that his truth or falsehood could be detected; he would there be unprepared, and by his manner of answering to such questions, they might know the consistency of a witness, and hence appreciate the credit which was due to the whole of his evidence. These observations were fully borne out by what occurred in that part of Mr. Flynn's cross-examination. He might be a brave man. He (the Solicitor-General) did not mean to deny it. Out of the present case he had no knowledge of him; but looking to his conduct as a witness in the case, he would say, that, perhaps from feelings of gratitude which operated strongly, but certainly from some cause or other, he had suffered himself to be led away; to be influenced by the spirit of faction, which was so much abroad with respect to this proceeding, in such a manner that his testimony should be got rid of altogether. He (the Solicitor-General) should not have felt himself called upon to make those observations with respect to Mr. Flynn, if his Learned Friend on the other side had not entered into such a warm panegyric upon him. He then came to the evidence of Lieutenant Hownam.

He stated that he believed Bergami slept in the tent. His Learned Friend, Mr. Brougham, not at all satisfied with this answer, interfered and said, that the meaning of the witness was, that he believed Bergami slept there, because he heard it, and that he believed it. No sooner was this said, than Mr. Brougham stated and said, "My Lords, it is a part of our case." This, which was before not touched upon at all by his Learned Friend Mr. Brougham, and only alluded to slightly by the other counsel, was no sooner admitted by the witnesses than it was immediately declared to form a part of their case. It was singular, that among gentlemen of so much learning and talent as her Majesty's counsel, there should on important points of their own case, be found so little union. The fact of Bergami's sleeping under the tent was not at all mentioned by Mr. Brougham. In the notice which Mr. Denman took of it, it was dwelt upon as a matter which was not clearly proved; but Dr. Lushington had admitted the fact, and laboured with great vigour, though, in his mind, with no great effect, in defending it. But it was strange that the Learned Attorney-General of the Queen—he who had displayed such talent in his opening—whose powerful mind had expanded itself over the whole of this case—grasping every thing however great, and comprehending every matter the most minute, omitted the mention of this part altogether. (So we understood the Learned Gentleman.) This was left to his Learned Friend, he (Mr. Brougham) keeping all the sap of the case, and leaving him only the rind. Was it that this part was too hard for his workmanship, and that he therefore left it to his Learned Friend? The fact, however, was clear from the evidence of Lieut. Hownam that Bergami slept in the tent; and in addition to this positive evidence, their Lordships had, which was still better, the negative evidence of the Countess of Oldi. (*Hear, from several Peers.*) Why, if the fact was not so, had she not been called? Was this, too, an accidental omission?—Were the counsel for the Queen not agreed upon this point also? He would not pretend to say they were not, though he had his own suspicions on the matter. In such a case as the present, he would have put the Countess of Oldi into the box at all hazards; and the moment he found that it was not intended to do so, he said the case had received its death-blow. If Bergami slept in the cabin, surely the Countess of Oldi must have known it, and she must have been the best witness on the subject. Why, then, had she not been called? She had been sent for. Mr. Vizard had her brought to this country. She was now in this country, and, no doubt, had been questioned. She was of course willing enough to assist the case, but she would not consent

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to state on her oath that which was not true. But if there was any particular objection to calling her, there was a host of witnesses besides. Where were Schiavini, Austin, Hieronimus, Mariette, Cameron, and several others. All of these could have been produced to speak to this point, but they had not dared to examine one of them. Need he offer one word more to their Lordships on this part of the case? But it had been asked, if Bergami had slept under the tent, what inference could be drawn from it? The tent was liable to the access of several of the suite, and, on one occasion, Lieut. Flynn went and lifted it up at the side to speak to her Majesty. Now, against that point the evidence of Gargiulo was conclusive, for he swore that it was fastened down all round, and that there were pins to fasten it. Mr. Hownam said it might be opened on the side, and Flynn said he lifted it up. Did he however, even attempt to lift it up, except when he was called by her Royal Highness? Oh, but there were hatches! and persons might come up from below. Yes, but what said Lieutenant Hownam upon that subject? He stated that one night he went up through the hatches, but finding the tent closed, he instantly withdrew; and yet it was maintained that the parties in the tent were liable to interruption: but who swore that the hatches were left open? That, at best, was a point in doubt: and yet, if they were so, the parties never supposed that any one unbidden would dare intrude upon their privacy. He now begged to direct the attention of their Lordships to another fact, of more importance than those upon which he had already touched. Gargiulo swore that on one occasion he saw her Royal Highness sitting in Bergami's lap, on a gun on deck; and Paturzo swore it also, and that he saw her Royal Highness sitting with him (Bergami) on a bench, his arms supporting her back. To this might be contrasted the negative evidence of Lieuts. Hownam and Flynn; but there was another fact sworn to by Gargiulo and Paturzo, to which Count Schiavini was said to have been present, and yet he was not called to contradict it. What was the natural inference to be drawn from this circumstance? What would be inferred from it, in the investigation of truth in any Court of Justice, but that those witnesses were withheld from a fear of what they might be able to prove. Now then, without advert- ing to the circumstances of the extraordinary rise of Bergami, to the introduction of all his family, except his wife, into the suite of her Royal Highness, it resulted from the evidence, that a number of these indecent, familiarities had taken place on several occasions, and that afterwards her Royal Highness slept under a tent for six weeks, side by side with this man. Was not the conclusion

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of guilt most evident? What was the doctrine laid down by the consistorial advocate of the Queen as he was called? He had said, that if opportunities were shown, and circumstances proved to lead to the conclusion that advantage had been taken of those opportunities, it was sufficient to make out adultery. What better opportunity could have been afforded than in the tent, and facts of the most indecent familiarity were deposed to by the witnesses: thus applying the facts to the argument on the other side—to the argument of the great consistorial authority it was clear that the house could arrive but at one conclusion. (One very singular position had been taken on the other side—that the parties had never undressed; nay, Mr. Brougham in one of his examinations had asked whether the Princess took off a stitch of her clothes (such was his word) during the whole of the long voyage? Yet the Princess had been lying all the time side by side with this “singular looking, stout built” man, and because her dress was not taken off, it was to be concluded that there had been no criminality. Was a proposition so monstrous ever urged before any tribunal, more especially before such a tribunal as this? Paturzo had sworn that he saw her looking out of the tent in a morning-gown, and it appeared that the dress of the other party was a loose Tunisian robe, and Dr. Holland had deposed that it was the ordinary mode of dressing. If such obstructions as these were effectual, what was to become of population? (Laughter.) Formerly it had been said that a hooped and whale-boned petticoat was insufficient.

“Oft have we known that sevenfold fence to fail,

“Though stiff with hoops and armed with ribs of whale”

This too frequently.

“Gave way and bent beneath a fierce embrace.

And was it credible that the Queen's morning gown had made a stouter resistance? He (the Solicitor General) hardly knew how to deal with the kind of justifications set up on the other side: the tedious evidence might be resolved into two or three points, and one of the reasons (for some reason or other must be given) for the conduct of her Majesty during the voyage was the strongest ever assigned. It showed to what extremities the other side was driven when they resorted to excuses, ground by a very slight examination to dust and dissipated in the air. Protection, they said, was necessary; the Queen must sleep in the tent with a male protector. Had they any reason to suspect the crew? No. Would not a person lying in a hammock, within four or five feet of the tent have been a sufficient protection? Yes, was again the answer of the witness. Was not

Capt. Flynn there? No; only occasionally, but he might have been there. Lieutenant Hownam might have been there: Sebastian might have been there: but then he was only a landsman. What was Bergami but a landsman? True, but then he was “a singular-looking, stout built” man, and might be of more service to her Majesty. (Laughter) But for the language and the imagery on which these matters had been observed on the other side to mislead the judgment, every body must have been struck with the extravagant absurdity of such pretences. The organs and faculties of men were, however, now getting into their proper state, and they began to see clearly, and to judge fairly. The observation made by the Attorney-General carried irresistible weight. What must have been the mutual reflections of these parties in their situation? Here was a sergeant of dragoons, a courier, an elevated mental, lying, for months together, side by side, with the Princess of Wales! Was it possible that she should not have been struck by the gross indecency of such conduct? Yet she was now to be held up as a woman of such extraordinary purity, of such noble, exalted, and refined sentiments. If, for a moment, she had been thoughtless and foolish enough to place herself in such a situation, must not reflection have shown her in the most glaring colours the impropriety of her conduct. A woman of the most ordinary delicacy—a woman of no delicacy at all—a mere woman—must have been struck by it. What, then, was the conclusion? Only this—that she could submit from but one motive, and that motive a determination to gratify her desires—to feed and inflame her insatiable passion. The moral evidence was even more cogent than the direct testimony, and no man who did not wilfully shut his eyes—he repeated it soberly, deliberately, dispassionately—no man who did not wilfully shut his eyes could fail to see the obvious guilt of the accused. He defied any one with the soul of a man and the faculties of a man to give any other solution to the case. Faction might mislead—party might sway—we might wilfully shut our eyes, because we did not wish to see any thing; but looking at the facts as we ought to do, fairly and coolly, it was impossible not to decide that an adulterous intercourse had taken place between the Queen and Bergami. Need he allude to what he had mentioned when he before addressed the house—the absence of that individual, who, if the Queen were innocent, if the facts admitted of explanation, might have been produced?—He had been a respectful, humble obedient, dutiful servant, and no more—discharging all his proper duties for his august mistress, and no more—a man without bluish, without imputation; why had he not made his appearance; He had approached this country—he had reached St. Omer's in one of the

Princess's carriages, no doubt blazoned with the royal arms; but oh, profanation! when his services were most wanted he returned—this respectful, humble, obedient, dutiful servant returned not daring to accompany his Royal Mistress to England. His sister arrived—Vassali, the agent arrived, but he came not. The counsel for the Queen, bold and confident in assertion beyond all comparison, had exclaimed, "Oh, absurdity!—among the numerous extravagant doctrines on the other side this is the first time a person charged with adultery has been called upon to vindicate himself and his guilty partner by his evidence!" The industry of the other side was only equalled by their confidence; yet they affected not to have discovered that precedent—that recent precedent to which the Attorney-General had referred, and which showed that this was not the first time such an expectation had been indulged. The evidence of Bergami would be most important either way; he might trip and betray the cause by his failure, or he might make a strong impression upon the House. Circumstances here, perhaps, might be too strong to outweigh even his positive testimony, but there was no good faith on the other side, if maintaining innocence so boldly, they did not put this most innocent man to the bar. He would not waste more time by dwelling upon this point. A word or two only regarding Aume would much strengthen the evidence regarding the palace, and for this purpose only he touched upon it. Here Bergami and the Queen were also under the tent. Here she had no need of protection, because in the outer tent there were two of her servants, and who might if necessary, as well as Bergami have slept in the inner tent. He did not impute, even as a matter of inference, that adultery did take place on those two days at Aume! he only mentioned to show the general system of cohabitation, although the crime might there have been completed. He would endeavour to confine his remarks to a moderate compass, and would touch merely on those parts of the case that had not been attached on the other side.—As to the theatre St. Carlos it was not disputed that the Princess was at the masquerade there; she was accompanied by Bergami in a domino, and by Louisa De Mont. They crossed the garden, went through a door at the extremity, got into a hired carriage, and so arrived at the theatre. He laid no stress upon what occurred there; his object was entirely different. What was the fair inference from this visit of the Princess secretly made, and so accompanied?—Did it not give most important confirmation to all the other facts. Even the conduct of his Learned Friends in their management—their zealous management—of the defence, established all that was neces-

sary; Doctor Holland swore to the fact.—The charge had been made, and had been in print for these six weeks: the attention of the Princess must have been drawn to the subject, and she must have known by whom she was accompanied to that masquerade. Did any of the English suite or any of the Italian nobility attend her? If so, she could have proved it: she had not proved it, and the evidence of De Mont on the point was rendered indubitable. Another circumstance admitted to by the Attorney-Gen. was the breakfasting at Genoa and Milan; and supposing no reliance were to be placed on the testimony of Majochi and De Mont, still they vouched the presence of other persons, which must satisfy all as to their correctness, recollecting that those persons so vouched had not been produced. On p. 258 De Mont swore that Louis Bergami and Theodore Majochi waited on the Princess and Bergami at breakfast, and Majochi deposed that Louis Bergami or Cameron assisted him. Why, then, had not L. Bergami or Cameron been called to contradict Majochi and De Mont? If the other side did not dare to produce them or either of them, according to all just reasoning it was strongly confirmatory of the original statement, and a clear evidence of guilt. The transaction at Venice with the chain also deserved a remark or two. A cross-examination of great length had taken place in order to enable the other side, if possible, to contradict Majochi; it was found the chain was bought of one Fanno; his residence was described, and it was added that at the time all the party were getting up from table. Fanno, then, might have been called; some of the persons present and rising from dinner might have been called; but they had none of them been produced. It had been said that in the public papers there was an account with respect to the sale of this chain. He (the Solicitor-General) was satisfied that this publication would have no effect on the minds of their Lordships. The other side had produced Austrian gazettes, and had offered supposed letters of Baron Omprida, but among all their ten thousand irregularities they had not ventured to produce this much-talked-of certificate regarding the sale of the chain. He did not believe it existed, or his Learned Friends would not fail to have brought it forward. The facts could not have been forgotten: Bergami had been waiting behind the chair of the Princess—she put the chain round his neck, he returned it, and then they parted with a squeeze of the hand. Not one point of this evidence had been contradicted. What answer had been given to the facts sworn to at Bellinzona, Lugano, and the Devil's-bridge? At Bellinzona Bergami in his courier's dress was admitted on a footing of perfect equality to the dining table of the Princess, and the same occurred at

Legano, and at the Devil's bridge. Mr. Denman had endeavoured to account for this circumstance by referring to the smallness of the inn; but Bellinzona was a large and populous town, and why was Bergami preferred to all the rest of the servants? Hieronymus was the Brunswick courier, from the same country as the Princess, and long in the service of her family; but no such attention was paid to him, and it was exclusively bestowed upon Bergami. Connecting all these facts together, the evidence was most importantly confirmed, and the conclusion was irresistible. But Lieut. Hownam said that he had never observed any thing in the conduct of the Princess towards Bergami in the slightest degree derogatory from her high station. Being asked whether he had never observed this extraordinary conduct, and remonstrated against it, he positively denied it; but when the name of Captain Briggs was mentioned, he began to recover, and he then first could not recollect. This might, it was said, be all consistent with veracity; but if such expressions had ever passed Mr. Hownam's lips, it seemed impossible that he should have forgotten them. What, then, was to be thought of this officer's general evidence? If such a conversation as that with Captain Briggs had taken place, supposing his evidence now given correct, it was at variance with the fact, or, if not at variance with the fact, it proved what he then thought of the character and conduct of the Queen. That he had used those expressions was established by a witness above all reproach; in a former stage he was considered so by the other side, and he was embraced as an unimpeachable witness against the Bill. But the moment he mentioned this conversation, the language and manner of the counsel for the Queen underwent a total change; then insinuations were thrown out: "Have you not lately dined with the King? Where did this conversation take place, and did you ever mention it to any person before?" It happened that Capt. Briggs had mentioned it before; and, as to the charge of dining with the King at Portsmouth, it appeared that Capt. Briggs, commanding the guard-ship there, in common with all the other officers, paid his respects to his Majesty. Such were the attempts made on the other side to attack the veracity of a witness who did not state exactly what made for their purpose. He (the Solicitor-General) felt the utmost reluctance in pressing these matters upon the House, and nothing but an imperious sense of duty could compel him to trouble their Lordships further. It was now near the hour of adjournment, and though he was anxious to confine his remarks to as small a compass as possible, he was still afraid that he must make a considerable demand on the indulgence of their Lordships.

The EARL of LIVERPOOL said, that it was apparent that the Learned Counsel had laboured under some degree of indisposition. On all accounts, therefore, a further delay seemed desirable.

EARL GREY was far from objecting to the proposal, only as to-morrow was a vacation day, he hoped that the delay would not render it necessary to defer the second reading of the Bill beyond Thursday, the day originally fixed.

The Solicitor-General observed, that if he were allowed to retire for five minutes, he should be able to conclude. (*Adjourn, a jour!*)

LORD ERSKINE said a few words, as we understood, suggesting that counsel should find on Monday.

The LORD CHANCELLOR alluded to certain other duties imposed upon him in the beginning of the week, which rendered an adjournment desirable. He knew well how to employ his time between this hour and Thursday morning.

Mr. Brougham, in reference to what had fallen from the Solicitor-General, regarding the letter of Baron Ompteda, remarked, that he was sure his Learned Friend meant nothing harsh or offensive to the Counsel for the Queen. What had been stated by him regarding the letters of Ompteda was founded in error, and he (Mr. Brougham) concluded that it proceeded from the instructors of the Solicitor-General, who, he understood, had presumed—had dared to say (which he trusted after this denial they would no longer do) that he had possession, and knew of the existence of those letters some time before he mentioned them yesterday. He did not know of their existence until yesterday morning, at half-past eleven o'clock, though he had been wrong in supposing that they only reached London yesterday morning. They arrived at Dover for the first time at half-past eleven on Thursday night. After this explanation, he concluded that no one would doubt the strict accuracy of his statement.

The Solicitor-General said, "Whatever my Learned Friend deliberately states, I perfectly believe."

Mr. Brougham repeated, that the assertions of the Solicitor-General had only proceeded from mis-instruction.

The House adjourned at five minutes past four, until Monday.

## House of Lords,

MONDAY, OCTOBER 30, 1890.

The House met at ten o'clock, and, after the usual forms, the Counsel were called in.

The EARL of BALCARNAS, who sat in the gallery, rose the moment the Counsel

appeared at the bar. The Noble Lord spoke in so low a tone of voice that it was with great difficulty any part of what he stated could be collected. Before the Counsel proceeded, he felt himself called upon to address their Lordships. Not being much in the habit of speaking in that House, he should not have troubled their Lordships on the present occasion, had he not been impelled to address them as well from a regard to justice as to what was owing to the feelings of individuals who were most nearly connected with him. The explanation which he had to make was due to more than with one noble family; and he made it not only in obedience to his own feelings, but to those who felt equally with him as to what had occurred. The Noble Earl then read from *The Times* a passage in Dr. Lushington's speech, which appeared to have been considered an attack upon Col. Lindsay. The passage was as follows: "If it were necessary to follow this charge further in detail, he could adduce other evidence of the same nature; but, before proceeded to do that, he must point out to their Lordships an attempt which the Attorney General had made, not to invalidate the testimony of Lady C. Lindsay, but to find out whether she might not, at some time or other, have entertained opinions derogatory from the character of the Queen of England. It was indeed well worthy of those who conducted the case for the prosecution, it was consistent with their general spirit, it was in concordance with every thing they had done from the beginning to the end of these transactions, to violate the confidence which ought always to exist between the husband and the wife, and by such means to bring forth facts, which, by the impudence and infamy of one of them, might lead to the destruction of the character of both. He felt nothing but pity and commiseration for his Learned Friends, who had been compelled to avail themselves of this proffered testimony; but he felt indignation, abhorrence, and detestation, for him who had furnished such means of knowledge—for him who had basely endeavoured by his own infamy to injure the honour of his wife, and to blast the character of his Queen. Such an instance of gratuitous infamy, he would venture to affirm, was not surpassed by any thing to be found in the records of any court of justice—no, not even in the annals of the Old Bailey. And, after all, what did it come to? Though even the contents of these confidential letters had been inquired into, it appeared that Lady Charlotte Lindsay never, in the whole course of her life, saw any impropriety in her Majesty's conduct; but that the reports which were in circulation had made an impression on her mind." From the allusion in this passage to a breach of confidence

between husband and wife, it had been supposed that allusion was made to the husband of Lady C. Lindsay. In consequence of that mistaken supposition having got into some persons' minds, Col. Lindsay had put into his (Lord Balcarras's) hands all the letters which had passed between himself and Lady C. Lindsay; and, having read the correspondence, he could, on the honour of a peer and a gentleman, assure the House that there was not in the letters one word which bore either directly or indirectly on the unfortunate case before their Lordships. The Noble Earl thought it necessary to give a brief sketch of the life of Col. Lindsay, to show how unlikely it was that he could have been guilty of any action which would render the passage he (Lord Balcarras) had read applicable to him. [Here the Noble Lord became so overpowered by his feelings that he was almost inaudible below the bar. We understood him to state, among other things, that Col. Lindsay had left England at an early age for India, and that he had undergone great hardships in the public service in that country. [His Lordship sat down amidst the cheers of the House.]

The EARL of LAUDERDALE said, that, in justice to the Learned Gentleman whose speech had been referred to, he should say that he had heard the whole of his address, and that the impression remained strongly on his mind that there was nothing uttered by that Learned Gentleman which could be interpreted as a reflection on Col. Lindsay. No one who heard that speech could say that he did not feel the same respect for Col. Lindsay and Lady Charlotte Lindsay that he did before that speech was uttered; and nothing could be more remote from the mind of the Learned Counsel, he was persuaded, that any reflection upon them.

Dr LUSHINGTON said, that if, in the course of what he had felt it his duty to state to their Lordships, any thing had dropped from him which might be supposed to reflect on the character or wound the feelings of any individual, no one would more regret such a circumstance than himself: but in the present case the whole supposition had originated in a misapprehension. As soon as he understood that Lady Charlotte Lindsay had felt herself hurt by the misapprehension which had taken place, he sent her the fullest explanation; and he had the satisfaction of learning that her Ladyship was perfectly satisfied with that explanation; and if any thing yet remained—if what had been said had given pain to the Noble Earl—he begged of him also to accept his apology. (*Hear, hear.*)

The LORD CHANCELLOR.—In justice to the Learned Counsel, I am bound to say that there was not one observation that was made by him on the witnesses at the bar



which it was not his duty to submit to the House.

The EARL of BALCARRAS expressed his satisfaction at the explanation which had taken place. He thought it right to bring the subject before their Lordships, in order to correct the erroneous impressions which had prevailed.

The LORD CHANCELLOR said, that the circumstance which had occurred ought to operate as a caution to persons out of doors against too readily believing representations which might be made to them on the tendency of proceedings which took place in that House.

The Solicitor-General continued his speech from the part at which he was interrupted by the adjournment of Saturday. It was not his intention to enter into the details of all that had passed at Naples, but some things which had occurred there were too striking for them to allow them to pass unnoticed. He accordingly called their Lordships' attention to what had been stated respecting the singular scene on the terrace belonging to the house in which her Royal Highness resided, on which she had been seen walking with Bergami, and the still more singular conduct of Mr. Craven on that subject. To a question put by one of their Lordships to Mr. Craven, he answered, that he did not observe any thing singular in the conduct of the Princess towards Bergami, and that he did not think there was any thing improper in their walking together on the terrace. Now it was impossible to reconcile this declaration with his conduct in cautioning her Royal Highness on the subject. If he had seen nothing but the ordinary attendance of a servant on his mistress, when he saw Bergami and the Princess together on the terrace, why did he make any representation to her Royal Highness relative to that circumstance? Let him suppose that servant walking on the terrace had been Sicard or Hieronymus, did their Lordships believe that Mr. Craven would, in such a case, have thought it necessary to make the same sort of representation? No; the caution was given because the servant he saw on the terrace was Bergami; and it must have arisen from something impressed on his mind by what he had previously either observed or heard respecting that person. It was stated that the terrace was overlooked, and that it was therefore impossible to attribute any intention of impropriety to her Royal Highness with regard to this circumstance: but if their Lordships looked at the whole of the case, they would see many similar marks of incaution and imprudence. The publicity of the circumstance, when the whole case was considered, had not much weight. The question for their Lordships' consideration was, whether they thought Mr. Craven would have interposed if he had seen any other

servant walking with the Queen on the terrace? He should now advert to what had been stated by Lord Landaff respecting Bergami. His Lordship having, in the course of his re-examination, mentioned that he knew Bergami at Naples, was asked—

“Does your Lordship recollect the names of the other attendants at Naples when you dined with her Majesty? The servants; no, I do not.

“Can your Lordship state any circumstance which has impressed the name of Bergami on your mind, without your knowing the name of any other attendant at table? Bergami was a very singular figure, and I knew him by that: I recollect him by his figure; he was a strong-looking man.

“Is your Lordship to be understood that you became acquainted with his name by remarking his figure, and, from that circumstance, asking what his name was? I never asked what his name was; but he being pointed out to me as Bergami, and from his figure, I did not forget him; I recollect him afterwards from that circumstance.”

Now he would ask their Lordships why why was Bergami pointed out to Lord Landaff? Was it not plain that that man had become an object of curiosity to all who were in the company? His Lordship could only know the name of that particular servant by somebody saying to him, “There is Bergami,” or possibly, in answer to a question from his Lordship, he was told, “That is the man.” From what did this curiosity respecting Bergami arise? Doubtless from reports concerning him, which had an influence on the minds of the visitors. It was from the consideration of what would be the operation of the human mind, under the influence of particular circumstances, that conclusions might sometimes be deduced with more certainty than from facts of a more broad and striking nature. With regard to the conduct of her Majesty, Lady Charlotte Lindsay had also been called to speak. The calling of this lady appeared to him a most extraordinary selection. Lady Charlotte Lindsay entered the service of her Royal Highness only at the end of her residence at Naples, just twelve days before she left that city, and therefore knew little as to that part of the case. But what did she prove respecting the conduct of the Princess of Wales during the period she was with her? If her Royal Highness and Lady Charlotte Lindsay walked together in the gardens at Naples, who accompanied them? Bergami was the man. If they renewed their walks at Civita Vecchia, who was with them? Bergami again. If they dined in private, who were present? Only Bergami and Wm. Austin. When they travelled, Bergami rode as courier, and their Lordships would recollect the extraordinary instance of condescension which her Majesty, while on the road,

showed to this man, when she gave him a bottle from her carriage to drink, and received it with equal condescension from him when he had so done, and replaced it in her carriage.

Mr. Brougham.—Read what the evidence is.

The Solicitor-General.—His Learned Friend desired him to read the evidence, and that he was perfectly ready to do. Their Lordships would find what Lady Charlotte Lindsay had stated at page 520 of the minutes. After describing the manner in which Bergami came up to the carriage, and received the bottle, Lady Charlotte Lindsay was asked—

“Did he afterwards return the bottle to her Royal Highness? I cannot be quite positive; I fancy he returned the bottle; but I cannot be by any means positive as to that. Her Royal Highness and I had taken our refreshment before he was helped; and whether he returned the bottle to the carriage or not, or whether he threw it away, I cannot be certain.”

That was her Ladyship's first answer; but she was again called upon to tax her recollection:—

“Although your Ladyship is not certain, to the best of your recollection which way was it? did he return the bottle or throw it away? I rather think that he returned the bottle to the carriage.”

Could their Lordships, then, after this evidence of a witness called in support of the conduct of her Royal Highness, have any hesitation in coming to a conclusion respecting the manner in which the bottle was disposed of? When Lady C. Lindsay said she rather thought Bergami returned the bottle, could there be for a moment any doubt as to how the fact stood? And could their Lordships fail to draw from that fact that only inference which was to be drawn of an extraordinary connexion and intercourse subsisting between her Majesty and Bergami? But he must call their Lordships' attention to other parts of Lady C. Lindsay's examination, to show the opinion which she entertained of the conduct of the Princess of Wales. Their Lordships would recollect the questions which had been put relative to her motives for leaving her Royal Highness. She was asked this question—“Did not your Ladyship, after you had come to the determination of quitting her Royal Highness, say that it was a vast relief to your mind, having come to the resolution of quitting the service of her Royal Highness?” In her answer she did not deny having had such a conversation, but only said she had no distinct recollection of it. She was then asked this question again, with the addition of whether she had not, at the same time, stated—“that you then considered that no woman with any regard to her character could remain in the service

of her Royal Highness?”—To this the same answer, “that she did not recollect,” was returned. The question was frequently repeated, but “that she did not recollect” was the only answer. Being, however, afterwards asked as to the effect of certain unpleasant reports respecting her Royal Highness's conduct, her Ladyship did admit that these reports had operated on her mind so as to induce her not to wish to continue in the Princess's service. Her Ladyship was, however, also asked—

“Did not your ladyship say, upon quitting the service of her Royal Highness, that, if it had not been for an anxious desire to assist a particular individual out of the savings in that service, you would have quitted the service long before? I think it very possible I might have made use of those words. I do not distinctly recollect that I did; but I think it is possible.

“Having recalled this little circumstance to the recollection of your ladyship, did not the former conversation to which allusion has been made pass at the same time? I have no distinct recollection at what time I might have said I was induced to remain from the wish of assisting that individual from my salary. I have no distinct recollection when I said that, and I certainly do not think it was coupled with any words expressive of an ill opinion of the Princess.”

Now this was the kind of evidence which had been given by Lady C. Lindsay, who was the only lady called on the part of the defence for the purpose of supporting the character and conduct of her Royal Highness; and their Lordships, upon looking at the whole of this part of the case, would see how very little the answers which Lady C. Lindsay had given could be of advantage to the object for which his Learned Friends on the other side had called her. Some observations had been made with respect to the examination of this lady, as if it were supposed his Learned Friend (the Attorney-General) had betrayed some confidence by the questions he had put. He knew, however, the situation in which his Learned Friend stood, and he could declare that the parties in this case were greatly indebted to his Learned Friend for the delicacy of his conduct in this instance. His Learned Friend had refrained from putting many questions which he might have asked; but on this subject he would not be more particular. Before he left Naples, he must observe that other witnesses might have been called to prove what the Queen's conduct was at place. Sir Wm. Gell, Mr. Craven, and Lord Landaff, saw her Majesty only in public; they dined with her in company with others, but there was a deficiency of evidence as to the dining in private. Let all the effect be given to the testimony of Sir William Gell and Mr. Craven that it deserved, it would amount to very little in its influence

on the case. Lord Landaff and Lord Glenbervie were but occasional visitors. As to Dr. Holland, he seldom saw her Royal Highness except at dinner; he was occupied in his own studies and pursuits. There was another witness, a Mr. Mills, who was called, but, on looking at his evidence, it would be found that he had called on her Royal Highness only two or three times while she lived in the neighbourhood of Rome. But their Lordships would look at the other side of the picture, and consider not merely what had been produced in evidence on this point, but what had been withheld by his Learned Friends. When evidence of this description was called, why was it not the best that could be produced? Lady E. Forbes was in the suite of her Royal Highness. She was with her Royal Highness during the whole of her residence at Naples, while Lady C. Lindsay, on the contrary, was only with the Princess during the last stage of her residence in that city. Lady E. Forbes's window commanded the terrace attached to her Royal Highness's house, and she could have given important evidence on that point. At Genoa Lady Charlotte Campbell entered her Royal Highness's service, and continued with her a considerable time. Why was she not called? But his Learned Friends on the other side had made it matter of reproach to the counsel for the Bill, that those witnesses had not been called in support of it. But surely blame could not be attributed to them on this account. It could not be meant that it was their duty to call these witnesses. The evidence had been all prepared before he and his Learned Friend (the Attorney-General) were made acquainted with the case; and if, after it began, they had applied to examine persons who might be considered as the natural witnesses for the defence, their Lordships might easily conceive what a clamour would have been raised on that score. Their Lordships, doubtless, recollected what remarks had been made in consequence of Lieut. Hornum having been called upon to answer an insulated question respecting a seaman who served on board the *polacre*. Even that circumstance had been made matter of insinuation against the party prosecuting this bill; what a clamour then would have been excited had it been discovered, after the trial had commenced, that his Learned Friend the Attorney-General and himself had come in contact with any of the witnesses on the part of the defence! But it was now said that "these witnesses ought to have been examined before this investigation was ever instituted," though that was an insinuation directed against another quarter. In reply, however, to that insinuation, he would ask, whether it was not clear that every application made to individuals in the service of her Royal Highness, must, as a matter of course, have been fruitless and in vain? Was it to

be expected, that persons in the stations which they occupied about her Royal Highness's person would have become volunteers in betraying the secrets of their ~~ministers~~ <sup>ministers</sup>? Any body who knew the particular individuals to whom he was alluding must also know that their lips would have been sealed against all hostile questions which could have been put to them. His Learned Friends, however, had contended that it was his duty to have called them as witnesses at all hazards. Their Lordships, however, had one fact before them, which must clearly convince them it was not—he meant the evidence of Lady C. Lindsay. Let them reflect upon the impression made on their own minds at the end of that lady's examination in chief, and let them compare it with the impression which remained there at the end of her cross-examination. If similar evidence had been elicited from her on her examination in chief, as a witness for the Bill, it would not have been in the power of his Learned Friends or himself to have submitted her to any cross-examination; and thus it was clear that the witness must have concealed a great part of the truth; for would any person pretend to say, that, if they had not cross-examined Lady Charlotte Lindsay, her evidence would have appeared upon the minutes such as it appeared at the present moment? His Learned Friend Mr. Brougham next charged the counsel for the bill with conducting this case contrary to all the rules observed upon cases of importance; he said that they had conducted it just as if it had been an action for goods sold and delivered, *at nisi prius*. That statement he (the Solicitor-General) asserted to be incorrect both in fact and principle; made, though it had been, with all the weight of his Learned Friend's eloquence, and re-echoed, as it had been after him, by his friend Mr. Denman. The real question was, whether the witnesses of whom he was then speaking were naturally on the side of the prosecution or on that of the defence; because it would be absurd for any prosecutor to call witnesses to the bar with the nature of whose evidence he was totally unacquainted, and who, besides that, were in the interest of the defendant. But the counsel for the bill had afterwards been told that, in the ordinary courts of law, the judges would have interfered, and would have censured them for the conduct which they had pursued. This charge he must likewise designate as an unfounded one; and, as a proof that it was so, he would call the attention of their Lordships to what had occurred on a recent trial for the highest crime which the law of England recognised—he meant the trial of Thistlewood for high treason. On that occasion a person of the name of Adams had been called, by the prosecutor, to depose to certain facts against the prisoner, which had taken place in the pre-

sence of some other persons who were connected with him. Was it contended, at that time, that the prosecutor was bound to call and to examine all who were present at that conversation? No such thing. His Learned Friend the Attorney-General and himself thought that they had done sufficient in calling Adams: they said to the Court—"We have made good our charge; we state that Adams was present at this conversation. We bring him forward to prove it. He says that other persons were also present; it is not our duty to call them: if they were present, let the prisoner bring them forward to contradict Adams; if he do not, when he has the means of doing so in his power, it is clear that Adams cannot be contradicted." According to the doctrine laid down by his Learned Friend Mr. Brougham, the Chief-Justice who tried that case, and the two other Learned Judges who were joined along with him, ought to have interposed their authority and to have said to the prosecutors, "It is your duty to call these persons; your case cannot be rendered complete unless you do so." But was any thing like that done? Quite the contrary. When the Lord Chief Justice summed up the evidence in the case of Thistlewood, he observed—and, on summing up the other cases, the Learned Judges who tried them concurred with him in opinion—"that as to the objection which had been made by the prisoners' counsel, that certain witnesses had not been called on the part of the prosecution, it was not well founded. Indeed, if the observation the absence of certain witnesses pressed either way, is pressed against the prisoner, since three or four persons might have been called to contradict Adams, of whom not one had been called." So far, therefore, were the judges from pursuing the course which his Learned Friend had said that they would have pursued under such circumstances, that they pursued directly the reverse of it. He had thought it necessary to go thus far out of his way to touch upon that subject, because for the last two months they had had that extraordinary, but not novel, doctrine laid down first of all by Mr. Brougham, then supported by Mr. Denman, and afterwards insisted upon with confidence by Mr. Williams and Dr. Lushington. He, for one, must enter his protest against it; it was totally untenable, it was totally impracticable in practice; it was calculated to frustrate the ends of justice, and was pregnant with every extravagance and absurdity. He must now refer their Lordships to a statement which he had previously made in the course of his speech—namely, that, with the exception of two or three witnesses speaking as to time, the defence of her Majesty was complete blank. In that assertion he had been slightly incorrect, that Mr. Hownam

had been called to speak to her Royal Highness's general conduct; and upon being asked whether he had ever seen any thing in it that was improper, indecent, or degrading to her high station, had answered "Certainly not." But what reliance, he would ask their Lordships, ought to be placed on this testimony of Lieut. Hownam? Lieut. Hownam had seen her Royal Highness sit down at table with Bergami in his courier's uniform, and yet did not think that to be degrading to her Royal Highness; the splendour of the uniform gave colour, he supposed, to the condescension: it might, perhaps, do so: still he could not leave it to their Lordships to consider what degree of credit was due to Lieutenant Hownam's testimony upon that point, without calling their attention to the manner in which he had committed himself by such an opinion: to him (the Solicitor-General) it appeared, that, after such an opinion, Mr. Hownam's evidence might as well be expunged from her Majesty's defence. His learned friends had, however, called two other witnesses to speak to her Majesty's character—one of whom was Vassali, a soldier in the army of Napoleon Buonaparte. A soldier in the army of Napoleon Buonaparte to speak to the character of a British Princess! A soldier in the army of Napoleon Buonaparte to declare whether propriety always marked the conduct of a Princess of Wales towards Bergami, and of Bergami towards a Princess of Wales! What an extraordinary case must that be which required the aid of such a witness? Would it not have been better to have declined calling any witness than to have called a witness of such an equivocal character? His learned friends should rather have said, "We oppose the high rank and distinguished birth of our illustrious client against all such calumnies: we ask whether it be possible for any person who has ever moved in the exalted circle in which her Royal Highness moves, to descend to such degrading familiarities as are imputed to her?" Such language would, at least, have been dignified and intelligible: but to descend so low as to ask what opinion Vassali and Olivieri entertained of her Royal Highness's behaviour, was to descend to a proceeding so extraordinary that he could hardly believe that his learned friends had ventured to resort to it: sure, however, he was, that now, when they had resorted to it, it would not be able to mislead the judgment of their Lordships. He would next ask why his learned friends had not called female witnesses to establish the correctness of Her Royal Highness's manners and behaviour? Their Lordships had heard something of the lady of General Pino, something of the lady of Tomasia, the Prefect of Como, something also of the lady of the Baron Cavalletti, who were



perpetually about her person; but though the names of these ladies graced their Lordships' minutes—and the females were generally the best judges of the propriety of female manners—not one of them had been called by his learned friends. Their Lordships had heard of an order for the attendance of the Marchioness Sangrati; she was, he understood, in this country: why had she not been produced at the bar? Was it not an admission that the propriety of her behaviour could not have been supported by the evidence which they had it in their power to produce, if it had been produced for their Lordships' investigation? A great deal had been said about the evidence of Majochi, and he therefore trusted that he should be excused if he addressed a few observations to their Lordships upon that subject. He did not mean to enter into an examination of his testimony with the same minuteness of detail that had been used by his Learned Friend the Attorney-General; he would confine himself to showing how weak the contradictions were which had been offered to it. Majochi had stated that Bergami dined, for the first time, with her Royal Highness at Genoa, and that he continued to dine with her ever after. That they did afterwards dine together was admitted on all hands; and, therefore, whether he commenced dining with her at Bel-Razona or at Genoa was immaterial. Majochi could therefore have no interest in deceiving their Lordships, and it would be too much to infer that this testimony was altogether false because her Royal Highness and Bergami did not dine together at Genoa. But it was in evidence that they had breakfasted together at Genoa, and that after they left Genoa they dined together. This might be an excuse for Majochi's mistake, if indeed it were a mistake. But it was likewise in evidence that her Royal Highness had dined in private with her suite at Genoa; so that Bergami might have dined in private with her; and indeed there was no evidence to prove that he had not. Therefore Majochi's statement on this point was either true or it was not: if it was true, it must tell against her Majesty; if it was not true, it was a mere mistake, originating in no interested motive. The next contradiction that had been offered to Majochi was on the secret staircase, which he had stated to exist between her Majesty's room and that of Bergami: but it was evident, from the manner in which he had used the words "secret staircase," that he meant a back staircase. There was no occasion, therefore, to call Lieut. Hownam to prove that there was no secret staircase; and with that observation he should leave that point, and proceed to the next which had been urged against Majochi. That point was, that Majochi, having waited frequently upon the Baron Ompteda at her Royal Highness's table whilst at Naples, must have

known him. But what was there in the evidence to warrant such a conclusion? It appeared that, whenever Ompteda dined with her Royal Highness at Naples, he dined at her table along with a large company: and, as there was no reason why Ompteda should make a strong impression upon his memory at that time, it was possible that he might not then have known him. But when her Royal Highness went to reside at the Villa Villani, where she and her attendants lived more by themselves than they did at Naples, then the presence of a stranger became a remarkable circumstance; and Majochi, being asked whether he recollected the Baron Ompteda's visiting her Royal Highness at that place, answered, "I remember it distinctly."

Mr. Denman.—"Where?"

The Solicitor General referred to the minutes, but was not able to find the passage to which he alluded. He then proceeded. Whilst his Learned Friends were looking for the passage in question, he should go on with his comments. Majochi said that he remembered Ompteda dining at the Villa Villani, at p. 63.

"Did you ever see a German Baron at her Royal Highness's house at the Villa d'Este? In the house Villani I saw him."

"Then you do know a certain German Baron who used to visit her Royal Highness? He was a Prussian."

"What was his name like, as nearly as you can recollect? I do not remember the name, because it was an extraordinary or unusual name; but he was called the Baron, Baron, something."

From this evidence, continued the Solicitor General, it was quite clear that Majochi admitted his knowledge of Ompteda. Besides, throughout the whole of his subsequent examination, his Learned Friend had alluded to Ompteda as the Baron with the extraordinary name. He therefore contended that the assertion which he (the Solicitor General) had made upon that point was fully borne out by appeal to the minutes. An attempt had likewise been made to contradict Majochi by the evidence of Carrington, who, according to the eulogy which his Learned Friend, Mr. Denman, had passed upon him, had been born a gentleman. Born a gentleman! How did that phrase apply to a man, who, having the offer of being placed in the respectable rank of an officer, which might have opened his way to the highest rank in the state, and have rendered him a companion for any individual in the land, declined that offer, and became in preference the servant of another? Was such a choice consistent with the qualities and characteristics of a gentleman? But it had been said he had declined it because he was poor and had no friends who could maintain him in a manner becoming

such a station. What would a gentleman have felt on such an occasion? He would have said; "Whatever be my poverty, I will endeavour by the most honourable conduct, by the utmost frugality, and by the strictest attention to my duty, to make amends for it—I will maintain my independence—I will show myself, though poor, worthy of my station, and in spite of fortune, will command the respect of my associates." Such, indeed, would have been the feelings of a gentleman—and such would have been his determination rather than to condescend to become the valet of Sir William Gell. In this manner did all the applauses which had been lavished on the witnesses in defence of her Majesty, and all the abuse which had been poured out upon the witnesses in behalf of the Bill, vanish into thin air, when closely investigated. After these remarks he proceeded to call the attention of their Lordships to Carrington's story. It related to a conversation respecting something which had taken place at the Villa Villani some two years before. And first it was stated to have occurred in the kitchen, and then it was stated to have occurred in the court-yard; so that, when it was thoroughly sifted, it appeared to be no better than a mere fiction. (*Hear, hear, from some of their Lordships.*) But, even allowing such a conversation to have actually passed, what was the consequence? Was a man to be condemned for not remembering a conversation which had passed three years before? Was his testimony to be rejected, because his memory was not extraordinarily retentive? Was that the doctrine of his Learned Friends on the other side?—if so, what became of the evidence of Lieutenant Hownam? What became of the want of recollection which he had exhibited? He had not been able to remember a conversation with Captain Briggs infinitely more remarkable, which, if it did not take place, was on a subject so interesting to his feelings, that it could not by any possibility have escaped from his memory: he, too, was a person of superior education; Majochi totally illiterate. Even if the conversation with Carrington did take place, what reason could Majochi have for concealing it? Did it cast any stigma upon his character? No such thing. He was represented to have taken part with his mistress. What motive, then, had he for concealing it? If it did take place it did honour to his feelings, and rendered his testimony, when it told against her Royal Highness, doubly valuable. But, before their Lordships gave weight to Carrington's evidence as contradicting Majochi, he wished their Lordships to recollect that Carrington contradicted himself; that, upon finding that out, he endeavoured to get out of his inconsistency in a way that he was sure their Lordships would never approve; and further

that he was positively contradicted by Sir J. Beresford. He should refer them to the minutes, because it was material to mark the exact words of the question. He was asked, "Were you in any other ship in his Majesty's service than the *Poictiers*?" That was put in so plain a manner that it was impossible to mistake it, and Carrington's answer to it was "No." A number of other questions were then put to him, and amongst others the following:—

"You are to be understood that you were never in his Majesty's service before?" To which his answer was given "No;" so that if it were a mistake, it was not only in one casual instance, but also in a second. It might be asked what interest he could have in telling so direct a falsehood? He (the Solicitor-General) would endeavour to explain it; but first he would call their attention to another contradiction in his evidence. He stated that he had been at sea, in the merchant-service, when a boy—that he had been on land, and that from the land-service he had gone on board the *Poictiers*, from which any person would have supposed that he had entered as a volunteer. It turned out, however, that he had been pressed; but a little vanity induced him to say that he had entered from the land-service, as it had before induced him to say that he was a midshipman. It was not, however, of those inconsistencies that he (the Solicitor-General) chiefly complained; what he complained of was, that Carrington had endeavoured to explain them away in a manner which he knew to be untrue. He would allow that his former answers had been given thoughtlessly and carelessly; but would that excuse serve him when, upon being asked what he meant by stating that he had never served in any other ship than the *Poictiers*, he replied that he thought the question referred to his service with Sir John Beresford? If it could not, then his mode of explanation impeached the credit which was due to his testimony. But he had also stated that Sir John Beresford had told him that he was to be placed on the quarter-deck. His words were, "I told him I did not wish to be on the quarter-deck, for I had no friends or money to support me on the quarter-deck; that I should wish to leave the service, if it could be got." Now what said Sir John Beresford to this? Why, he totally denied it, as their Lordships would see by reference to page 845; as also that there was never any intention to make him a midshipman, he being merely transferred as such to the *Thirbe*, to obtain his discharge. He was thus completely contradicted at all points; and yet Carrington who contradicted himself, and who was also contradicted by Sir John Beresford, was to be considered as completely destroying, by his contradiction, Majochi's evidence. It was true that Sir John Beres-

ford had given him the character of an excellent sailor: he might have been so, but certainly he had not conducted himself in such a manner as to be entitled to credit in this case, much less to overturn the credit of another. There was another fact to which he wished to call their Lordships' attention. It appeared from Carrington's evidence, that another person was present during this conversation with Majocchi—a person, too, who was now in the country, as Carrington admitted that he had seen him at Mr. Vizard's office, and who had not been called to support his assertions. If Carrington's evidence had been without spot or blemish, still there would have been nothing more than his word against Majocchi's; and it would therefore have been incumbent on the Queen's Counsel, as the evidence was on the balance, to call another witness, to give to their side the preponderance: how much more necessary, therefore, was it for them to do so, when the character of Carrington was violently assailed, and it was shown that no reliance could be placed upon his testimony? What excuse could they plead for not producing at the bar the other individual who was present at the conversation? Did not their failure to produce him shew that they believed Carrington's story to be untrue? The Counsel in behalf of the Bill had repeatedly challenged the other side to produce Mr. Hownam's servant, Francisco: his presence would have delighted them above measure; but his Learned Friends had abstained from calling him, and relying on Carrington's testimony alone, had not, in the slightest degree, impeached Majocchi's testimony. A great deal had also been said about the phrase "*Non mi ricordo*," of which Majocchi had made such frequent use. A more courtly phrase, had, however, been employed by the witnesses on the other side, which meant exactly the same thing. (We did not distinctly hear the expression.) Of neither of them, however, did he complain. It was not extraordinary to find that, when the attention of a foreigner was pointed to certain facts, which had occurred many years ago, he should have forgotten some of them, questioned, as he was upon them, through the medium of an interpreter, on a sudden, and before a court the most august and venerable in the world; and therefore his partial recollection of some, and his total forgetfulness of others, could not be considered a legitimate ground for discrediting his testimony altogether. If, then, upon looking to the other side, they found that persons of whom he wished to speak with respect, persons of high station and distinguished character, did not always speak with decision, but sometimes said that they did not recollect, when examined upon facts which they could not possibly have forgotten, if they found that those persons could not satisfy themselves with their recollections, but refused to swear to them positively, what

argument could be legitimately urged against Majocchi's testimony, if it appeared that his memory had failed him upon facts of a comparatively trifling importance, and from whom the phrase of "*Non mi ricordo*" had only been more frequently extracted because his cross-examination was longer? He meant not any improper reflection against those persons to whom he had been alluding—his argument required that he should treat them with respect, and great allowance was always to be made for the frailty of human nature, and the decay of human memory: but, at the same time that he cast no imputation of them, he demanded that they should show the same charity to others, especially to others in an humbler situation. The Learned Gentleman then proceeded to say, that the extraordinary way in which Majocchi had been treated was not in their Lordships' house, but out of doors; there he had been completely hunted down by the press of the country. Let their Lordships recollect how he had often dragged to the bar; and how he had been questioned about conversations which he had held with a Mr. Johnson, on a journey between Bristol and Gloucester; with a Mr. Hughes, a banker's clerk; with a Mrs. Hughes, his housekeeper; with a Mr. Hyatt, his master, and about a variety of other extraneous circumstances. On his examination he denied all such conversations; and because his Learned Friend, Mr. Brougham, held in his hand the letters which he had received from his correspondents relative to them, it had been assumed throughout the whole country for the last 5 months—no, he begged pardon, for the last 3 months—no, he meant the last 3 months—that every word to which Majocchi had then sworn was false and unfounded; and yet, when his Learned Friends had the opportunity of calling persons to prove it so, they had not called even the shadow of a witness to attempt it. Another point to which he must implore their attention was this: His Learned Friend, Mr. Brougham, in order to show the influence under which Majocchi was acting, asked him several questions about a visit which he had paid to a large house which had pilasters before it and sentinels at the gates, thereby intimating that he had been at Carlton-house. Why did he not ask him at once whether he had been there or not? It turned out, at last, that he had been there, because he was going abroad as a courier with despatches from this government. What, however, did the visit prove: That he had, whilst there, been introduced to a person who did not understand his language, and of whose language, in return, he was quite as ignorant. He would now beg their Lordships' particular attention to the question put to Majocchi at page 92, about Camera: "Did you not also make appli-

cation five or six times to Camera to be taken back into her Royal Highness's service? Softly on this point. The first or second time that Camera arrived at Milan Camera sent his son for me; and Camera told me, and I remember it as well as if it were now — 'Theodore Majochi, do not enter into any service, because her Royal Highness wishes to take you back, and I shall pay you.' This conversation must be put down, such as it is, and I beg to be allowed to speak. Camera told me, 'Theodore, give me back the certificate of your good service, give me back such paper, and I will tell to her Royal Highness that you have not taken a further engagement, that you have not been in any further service, and she will pay you for the whole time that you have been out of service—all the time you have been out of service, and all the damages or losses you have suffered: and I told Camera, Camera, give me back my paper—because I had already given him my paper,—because rather than to go to serve her Royal Highness, on account of the persons that are about her, I will go and eat grass.'"

Now he should have supposed that Camera would have been called to contradict this conversation. It did appear that there was some desire to get Majochi back to her Royal Highness's service, and to get back his certificate, but Camera had not been called to contradict it, and therefore their Lordships were to take this statement of Majochi as correct. Now why so anxious to get him back to the service of her Royal Highness? The reason their Lordships would easily understand if the facts charged in this bill were founded on truth. But what he relied on was, that a false impression had been attempted to be made on their Lordships' minds by putting these questions to Majochi without following them up by calling the persons who could have given a contradiction to him if he spoke what was not true. He begged leave here to advert to something that fell from Dr. Lushington on the subject of a judgment given by Sir Wm. Scott, in the case of "Loveday v. Loveday," to which he (the Solicitor General) had on a former occasion called their Lordships' attention. In stating that passage of the judgment formerly, he had said that he had nothing to do with the facts of that case, because they were wholly inapplicable to the present, and that he made the reference for the sake of the doctrine itself. Dr. Lushington, however, wished their Lordships to believe that the doctrine there laid down was applicable only to the facts of that particular case. Now this he denied, and he contended that the doctrine was general, and that the facts of the case applied to it. The learned gentleman here quoted again the passage referred to, and appealed with confidence to their Lordships whether the Learned Judge had not

laid down the doctrine in question as a general rule applicable to all such cases. His Learned Friend, Dr. Lushington, had also stated with great confidence that there was no instance of a bill of divorce being passed where the female was above 45 years of age. Now this assertion he should contradict, not for the necessity of the doctrine, but merely to show the rashness with which his Learned Friends on the other side hazarded assertions. It would be found that no later than in the year 1816, in the cause of "Barlow v. Barlow," in the Arches Court, the plaintiff had succeeded, although the female was 46 years of age. He stated this merely to show their Lordships how carefully they ought to sift the facts stated by his Learned Friends before they relied on them. No doubt there was as much necessity for sifting the statements of himself and the learned gentlemen on the same side with him, when no authority was referred to; for it was only such statements as were governed by authority that could lead their Lordships' minds in this important inquiry. It was not his intention to go at length into the evidence of De Mont, but there were two points on which her credibility was supposed to be destroyed, and on which he should therefore address a few words to their Lordships. She stated that her Royal Highness returned early from the opera, but Sir Wm. Gell said it was late before she returned. Sir Wm. Gell said that he suffered much from his infirmity while standing behind her Royal Highness during the opera, and that it struck him that it was very late. But look at the evidence of Mr. Craven, which throughout appeared to be of a more cautious and accurate description than that of Sir Wm. Gell. At page 554 he said, "I should think it ended rather later than usual." And their Lordships were to destroy the evidence of De Mont on this ground. Why, it was most extraordinary to suppose, in this conflicting testimony as to time, that, because one party said it was earlier, and the other that it was later, therefore De Mont came here to deceive their Lordships. The other point was the dress worn at the masked ball. De Mont did not say, in any part of her evidence, as far as he could discover, that the dress worn by her Majesty was indecent; she merely described the dress worn on that occasion, as their Lordships would find at p. 254. Now, with respect to the testimony on the other side, Sir W. Gell said that there was an expectation of something appearing from the other room—that the Princess descended and placed a crown on the bust of Murat, when the door closed again, and all this with the haste of lightning. Mr. Craven said the time was so short, that it was difficult to make any observation on the dress of her Majesty, but that it did not strike him as in-



decent. It seemed, then, that there was no opportunity of observing the dress. His Learned Friends, however, laid great stress on De Mont's having said that the breast was bare; but that was striking De Mont too hard. Their Lordships would remember the description which, in another part of her evidence, she gave of the dress worn by her Royal Highness in the character of a Magdalen, where she said that the gorge was uncovered. This word the interpreter translated "the breast," but the other interpreter said the word meant either "the breasts" or "the neck." That took place in a subsequent part of her evidence to that under consideration; and he would leave it to their Lordships to say if it would not be uncharitable not to give the same interpretation to the word in this place.—These were the two facts relied on for the destruction of Mademoiselle De Mont's evidence, and he certainly thought it unnecessary to dwell longer on them. But when they talked of the opening of counsel, and of the failure to prove statements that had been opened, it was impossible to forget one opening statement that had been made by his Learned Friend Mr. Williams. It was important for the defence to prove that her Majesty slept in her own bed on the second night after her arrival at Naples; and Mr. Williams had accordingly said that he should be able to prove, by one of those providential circumstances that fortunately occurred to protect the innocent, that her Majesty had passed that night in her small travelling-bed. The windows of the apartments had been blown open, he said, by the violence of the wind, on that night, and the servant who came to close them saw her Majesty in bed. But that servant had not been called; and no attempt had been made to prove this important fact; and yet his Learned Friends had the grace to complain that the opening statements of the Attorney-General had not been proved. He, perhaps, could show the cause of this fact's not being proved: for it turned out from Siccardi's evidence, that it was on the night of her Majesty's arrival at Naples that the wind was so high; and, probably, that was the night on which this circumstance occurred on which Mr. Williams had relied so confidently. It was impossible, when talking of Naples, not to be struck with the extraordinary change which took place in her Majesty's situation after quitting that place. At Naples she was surrounded by respectable persons belonging to her own or her adopted country—such as Lady C. Forbes, Lady C. Lindsay, Sir William Gell, the Honourable Keppel Craven, and Captain Hesse. In general she was found afterwards surrounded in a most extraordinary manner. Her *dame d'honneur* was the Countess Oldi, whose manners had been described as not

very fascinating; and the other persons of her suite were Schiavini, Vassalli, Olivieri, and various persons of the same description, most of them ex-officers of the armies that had served under Buonaparte. For a daughter of a Duke of Brunswick, and also the sister of a Duke of Brunswick, that was an extraordinary selection of attendants. It was strange to select men who had served in the armies which had overthrown the dominion of her father—who had insulted and triumphed over her father and her brother—that brother who, having sworn that he would never sheathe his sword till he had avenged those injuries, was at that moment marching to oppose this army. Yet these were the individuals whom a daughter of Brunswick selected as her associates, withdrawing herself from the society of all the English in her neighbourhood. How was this to be explained? Could it be accounted for in any other way than by referring it to that dominion which was exercised over her mind and faculties by Bergami? This could not have been a voluntary influence. But, in order to account for all these things, they were told that her Majesty had been forced into exile and banishment, and arguments had been built on the supposed truth of that statement. Leaving this country, however, was her own voluntary act. It was well known that the proposition came from herself, and was assented to, and merely assented to, by the individuals to whom it was addressed. And yet their Lordships were told that all resulted from this banishment. In an early stage of this inquiry appeals had been made to the reign of Henry VIII., and to the conduct of that monarch. These appeals were then thought sufficiently high for the purposes of this defence; but at last, the names of Anne Boleyn and Henry VIII. became familiar to people's minds. A higher stimulus was then thought necessary; and, accordingly, in a later stage of the proceeding, his Learned Friend (Mr. Denman), whom he had long known, and whose character he loved and admired, thought fit to say, that in the history of the world, in all ages of either the ancient or the modern world, he knew of no parallel to this proceeding unless in the annals of Rome, in the worst period of her history, and under the worst and most infamous of her sovereigns. Her Majesty had been represented to stand at present in a situation similar to that in which Octavia was placed. Now how could he answer that allegation but by showing in what situation Octavia did stand? Octavia's father had been murdered by Nero; her brother had been murdered by Nero in her presence. She herself, as virtuous and spotless an individual as there was in the world, was accused of a criminal intercourse with her slave. There was, however, no semblance of truth in that charge; she had never

advanced that slave to honours—had never slept in the sameroom with him. Yet, without evidence, she was convicted and sent into banishment. What then took place? A monster who had been employed by Nero to murder his mother. Agrippina was applied to to murder Octavia. The confession was made on oath, and the proofs of it were taken. Her veins were opened; but, as they did not discharge quite enough of blood, she was thrown into a vessel filled with warm water; and her head was afterwards cut off and sent to Rome, to Nero. (A Petr. "To Poppæ.") That was to Nero. He knew not what to say to his Learned Friend, when he thought himself justified to say in a court of justice, that this case of Octavia not only bears a resemblance, but is the only case in ancient or modern history to be compared to the present proceeding. When he heard this comparison made his blood thrilled with horror, and he hardly knew where he was, or who was speaking.—But his Learned Friend (Mr. Denman), in making this comparison, had not even the merit of the invention, the idea had not originated with his Learned Friend, for he found in a newspaper, published some days before the speech of his learned friend was delivered, an advertisement of a work, entitled "Nero Vindicated;" and published by whom? By a man of whom he knew nothing himself; but who was well known to the public—"Published by William Hone, Ludgate-hill?" His learned friend (Mr. Denman) had, therefore, condescended to make himself the instrument of that person, and to introduce before that high and august assembly a comparison injurious to the character of the monarch. What would his learned friends say, if he, in answer to the argument founded on the boldness of her Majesty in coming forward to meet the charges against her, were to quote the address of Silius to the wife of Claudius, when endeavouring to excite her to the commission of treason:—"Insultibus innoxia consilium; flagitiis manifestis, subsidium ab antiaxia petendum?" He would not have dared to make any allusion to the history of this period if he had not found these words in almost the same pages that had been quoted by his learned friends; nor did he wish these words to be considered applicable to her Majesty, for in neither case did he believe there was the slightest resemblance. A great deal had been said about the ball at the Barona, and it was not his intention to go at large into that part of the subject. He would only request their lordships to recollect where those balls took place—at her Royal Highness's residence at the Barona—and that no persons of rank were found attending them but Coraccia, the ex-prefect of Como, and his wife. This was extraordinary when it was recollected that the Barona was at the very gates of Milan. Once or twice it might have occurred;

but there seemed to have been no other kind of entertainments. What was the reason that in this residence, so near a large and populous city, her Majesty was visited by none of the Italian nobility? Referring again to what passed at Villa d'Este, acting with her own servant, dancing on a stage before the people, did appear to him to be indications of something like a degradation from her Majesty's rank and station. Again, as to what was said of the exhibitions of Mahomet, he could not help adverting to the extraordinary manner in which this bill had been met. A Mr. G. Sharpe had been called to state that he was once present at a dance in the East—that he saw nothing indecent in that dance—and that it was exhibited before the governor, the governor's lady, and other persons of respectability; and from this their lordships were to infer that there was nothing indecent in the exhibitions of Mahomet. The learned gentleman then adverted to the evidence of Sir W. Gell and Mr. Hownam respecting this dance. He also quoted that description of a dance from "Bourgoanne's Travels in Spain," which has already been adverted to more than once;—and he contended that Majocchi ought to be believed because none of the servants who were alleged to have seen the exhibitions of Mahomet had been called. His learned friends had not touched, or but very slightly, on the transactions at Villa d'Este; and here he would observe, that if his learned friends could not have contradicted these facts by witnesses of their own, they might have called the friends and neighbours of the adverse witnesses from Italy, to impeach their character and credit. Their lordships would remember, among other circumstances, that in a pado-vanella her Majesty was seen sitting on Bergami's knee. Was any witness called to contradict that fact? No; it was most extraordinary that the only person called was Vassali, who had never been in her Majesty's service till after that. His learned friends, instead of calling witnesses from the Villa d'Este to contradict the facts alleged there, went to Pesaro for witnesses, to prove what was not done at Pesaro. He next begged to direct their lordships' attention to the evidence of Galdini, a witness on whom his learned friend (Dr. Lushington) had made some observations. Their lordships would recollect that Dr. Lushington contented himself with making some comments upon the improbability of the case. This man had gone up stairs at this house; he had suddenly opened the door, had seen her Royal Highness and Bergami sitting upon a chair or a sofa, Bergami having his hands, one round the neck of her Royal Highness, and the other upon her breasts. Bergami then started up, and asked him what he did there; to which the witness replied. Now, because the witness, in his confusion, said that he only observed them for a moment,

his learned friend had inferred that the whole evidence on this point was a story. Their lordships, on referring to p. 387 of the printed minutes, would see the whole particulars of the case. They would not fail to mark the serious conduct of his learned friend. A story was told by a witness, upon his oath, bearing, as he (the Solicitor-General) contended, no improbability whatever on the face of it. These circumstances having occurred, the witness withdrew, as every man under his circumstances naturally would do. What was there of improbability, then, in his account? But, if it were untrue, his learned friends had the means of contradicting it. It was told at the time, at a period very recently after the transaction itself had taken place; it was known that the factor had been called for here as a witness; and his son might have been called to contradict Galdini.—Would their lordships, upon a vague and general observation of Dr. Lushington, concur with the learned gentleman in discrediting this evidence? If it was to be discredited, it ought to be disproved; but if it could not be so disproved, could there be any thing more strong or conclusive than the nature of the testimony? Another witness, upon whom no comments had been ventured by his Learned Friends, was Galli, who spoke, at p. 418, to the affair at the inn of Barlisina, where was a waiter. He said (p. 418, 419)—“The company had gone into the second room. I went to go and clear the table, and I saw the Baron holding an arm upon the shoulder of the Princess, and, at the moment that I was going into the room I saw, the Baron give her a kiss; but I did not enter, for they told me immediately to go away.” Now it was very material to advert to the cross-examination of this witness; for their Lordships would there find abundant matter offered to his Learned Friends for the production of witnesses to contradict his testimony. He was asked who was present on an occasion he had just adverted to: and he replied, about 8 or 10 persons—Captain Vassali, the Professor Mochetti, an Englishman whom he did not know, any others. The evidence of Galli therefore related to a transaction that took place in the presence of all these persons, who were at that time dining with her Royal Highness. Every word he had uttered on this subject, consequently, might have been contradicted by any one of the individuals so present. Were they, then, to reject this evidence upon no better ground than that which had been assigned by Dr. Lushington—namely, that he was waiter at an inn in Barlisina? It should be desired by their Lordships, that some one of those who had been present at the time he spoke of should be put into the witness-box; and then, if his Learned Friends should object to that course, would the house reject the evidence?

There was another fact which well deserved to be noticed—he meant, relative to the statement made about the busts at the Villa Brandi. A person came there, it seemed, to take one bust of her Royal Highness, and another, at the same time, of Bergami. These two busts, when finished were placed according to the evidence of Sacchi, in the room of Bergami. Any witness at Pesaro might have contradicted that circumstance. Their Lordships could not but draw their inference from such facts as these, all tending, as they did, to one conclusion—the conclusion upon which the institution of the present proceeding rested. He should weary their Lordships if he went further into this evidence; and he would, therefore, satisfy himself by directing their attention generally to what took place during her Royal Highness's residence at Villa d'Este. There their Lordships would find the parties living together in the utmost familiarity; walking arm in arm together, like husband and wife; going upon the lake together in a canoe; and, on one occasion, her Royal Highness sitting upon a bench with Bergami, and pulling him down upon it again, when he had risen to walk away; and a great variety of facts, to many of which it was not his intention more particularly to allude, after the sifting which the whole case had undergone. But he must beg to advert once more to the transactions at Catania, which had been so properly and so strongly commented on by the Attorney-General. The House would recollect that, at Catania, De Mont and Mariette Brown slept in the same room. Bergami's room was on one side, and that of her Royal Highness on the other. Bergami occupied a room which belonged to the Countess Oldi, his sister; but she, for the accommodation of Bergami, was removed into the room of her Royal Highness; and the little Victorine also slept in the same room with her. Now it was distinctly and positively sworn by De Mont, that in the course of the night, when she came up stairs, finding her Royal Highness had retired, and she, De Mont, not having been called to dress her Royal Highness, according to usual custom, the room-doors being closed, she in the middle of the night heard the cries of the child Victorine, and the Countess Oldi endeavouring to pacify her. This was a very strong fact; but his Learned Friend had contended that this was not all the same night. He (the Solicitor-General) maintained it was clearly and distinctly the same night. It was most positively sworn to be so; that the night of the child's crying and the Countess's endeavouring to pacify her was the same as that which preceded the morning he was about to allude to. The questions which elicited the information had been put over and over again. De Mont, rising at her usual hour, about 11

o'clock, remained till 10 in her own room. Before she retired her Royal Highness came out of the adjoining room—that occupied by Bergami—with her two pillows in her hand, for the purpose of passing into her own room. The moment her Royal Highness saw De Mont she started, as naturally she might do, with surprise. Now, if that evidence was not disproved, and this case was proved, could his Learned Friends contend, for a moment, that it was not clear and distinct evidence of an adulterous intercourse during that night? Such was the conclusion to which, he thought, every man must arrive on this point. The Learned Gentleman proceeded to defend, at some length, the character of De Mont's testimony, which, he contended, was in no way impeached by the variation it contained relative to the fact of her half-sister's having been present or absent on the occasion just mentioned. She only deposed to the best of her recollection. He then quoted Mr. Brougham's pledge to bring forward Marietti as a witness, and went on to argue upon the singularity of her being withheld, and the expediency of her being produced, if her Majesty's Counsel did not fear the truth coming out. Mr. Brougham had asserted that she was quite a gratuitous witness, and came forward solely out of a desire for the justification of her royal mistress. Now he (the Solicitor-General) did apprehend from all this that Mariette must have been the most efficient and the best possible witness for the defence, and in a situation to contradict her sister on very many material points. No satisfactory reason had been assigned for the withholding of her; and it would be difficult for the other side to assign one, after the high terms on which Mr. Brougham had spoken to her character. If she was not to be called for the purpose of contradicting De Mont, what would they say as to the credit of De Mont's story? It was impossible for any man reasonably to doubt it. But it was not by Mariette only, only, that the Queen's counsel could be enabled to contradict De Mont. The Countess Oldi would be a competent witness to prove precisely the same facts. The Countess Oldi might have proved that her Royal Highness was not, during the whole of the night, out of the room which was occupied by her. This negative might have been established by two witnesses, neither of whom had his Learned Friends ventured to produce at the bar, though they ought both to have been confidently called, in order to disprove De Mont's story. But his Learned Friends, by their conduct, had admitted that, in fact, that story could not be disproved; and thus had afforded the strongest possible confirmation to the testimony of the witness. Were their Lordships to decide on the evidence given at their bar; and, not only upon that, but upon

such as his Learned Friends might yet offer, and ought to have laid before them: Surely they were. Was this a legitimate mode of reasoning? Was this a legitimate mode of arriving at the truth? If it was, never was a case more strongly established. Here was ample evidence, not disproved on the one side, and none offered on the other side to disprove that an adulterous intercourse between her Royal Highness and Bergami had taken place at Catania—an intercourse of which no reasonable man could entertain a doubt. The Learned Gentleman went on to notice the case at Turin. There the witness told their Lordships that he went accidentally through the room of Bergami into that of the Countess Oldi, in consequence of a message which he was charged with; and that he saw Bergami coming out of the room of her Royal Highness in his night-gown and stockings, having no other part of his dress on. It was not necessary for him to dilate much upon this point; but it was evidence which the Countess Oldi was not called on to contradict. That party might be called to every part almost of this case; there was scarcely a fact which might not have been contradicted or proved by the Countess Oldi. She entered (according to their case—the case of the counsel for the Bill) into the service of her Royal Highness, for the absolute purpose of assisting this illicit correspondence. In the whole course of these transactions it resulted from the evidence that such was the position of the Countess Oldi, owing to the disposition of the apartments, that she might have disproved every case which was charged. The Solicitor-General then reviewed the evidence of Barbara Kress, which strongly corroborated the last testimony he had quoted. It was now some weeks since Kress was examined at the bar, and, notwithstanding that the Learned Counsel on the other side had had every opportunity of impeaching her credit, it still remained above all impeachment—it was still unanswered, whatever had been the attempts made to impugn it. This witness swore distinctly that she saw her Royal Highness in the bedroom of Bergami sitting on that bed, in a way which had been so often described. Could she be mistaken in the person of her Royal Highness? As if to guard against that inference, at the very moment she was giving her testimony her Royal Highness was sitting opposite to her in a chair. She swore positively that it was her Royal Highness; and at a further stage of her evidence, her Royal Highness withdrew from the House. It was suggested, on the other hand, that it might have been not the Princess, but the Countess Oldi. If so, nobody so well as the Countess Oldi could have disproved the fact; and if it was not so, it was perfectly clear that the person must have been her Royal Highness.



What other effectual evidence could the other counsel bring, but that of the Countess Oldi, to bear with any weight against that of Barbara Kress. Captain Vassali was, however, called in; and he told the House, with a precision which was absolutely marvellous and incredible, after a lapse of three years, where her Royal Highness had dined, where she had slept, and how she had passed even the intervals between dinner and supper. This certainly evinced a most extraordinary memory; but, with regard to the time they passed at Munich, his want of memory was almost as remarkable, on this occasion; he could not give a distinct account of where she dined or slept on any one day or night during that period. Lieut. Hownam, speaking of the Princess's residence at Carlsruhe, deposed that she slept out mostly; but from Vassali it appeared that every evening she was absent from her own residence. Was it possible, however, to put the evidence of Vassali in opposition to, or in contrast with, the evidence of this woman, Barbara Kress? He thought not; and, after all, who was Vassali? He was, it appeared, a pensioner in the service of her Royal Highness; a friend of Bergami, a person actively employed in collecting witnesses—identified in that employment; he it was who had received large sums of money for that purpose. He was actually identified with this cause, and had every interest to promote it as much as was in his power. He (the Solicitor-General) would ask, in confidence, then, whether they would believe this witness in opposition to Kress? But there remained another circumstance of importance: it was deposed by Vassali, that Bergami, in consequence of indisposition, returned to the inn with the Countess Oldi, from the Grand Duke's, between four and five in the afternoon. It was admitted that her Royal Highness returned about seven or eight in the evening; but Vassali said that which must be false—which was, indeed, utterly incredible—namely, that, after her Royal Highness had returned to the inn, she went into the saloon, and stayed there, in the presence of Vassali himself, retiring for no purposes whatever. But would their Lordships believe this statement? Was it even probable? While they continued at the house at Carlsruhe there occurred a fact of the strongest and most peculiar character. He alluded to the cloak which was found in the bed of Bergami, delivered to one of the servants, and afterwards worn by her Royal Highness. No explanation had been given of this circumstance; no witness had been called, by the other side, for this purpose nor was any explanation afforded by his learned friends. These two facts, last mentioned, materially supported and corroborated each other; and they threw a light upon the rest of the case. Judging by the ordinary rules of evidence, he thought their Lordships could not entertain a

serious doubt with respect to the conclusion to be drawn from them. His learned friends had complained they had suffered greatly by the absence of the Baron D'Ende. That was their statement, and might be met by a contradictory statement from them. (the counsel for the bill). He did not believe they had suffered; but he had as much right to say that, as the other side had to assert that the appearance of D'Ende would have assisted their case. The learned gentleman went on to contend that a very strong case was made out of adulterous intercourse at Carlsruhe at Milan. He then defended the conduct of Baron Grimm at Carlsruhe, who had been charged with "running about" (which was the phrase used merely accidentally, by the witness who had deposed to this part of the case) into the different apartments formerly occupied by himself, and then just quitted by the Queen. The observation, excited in consequence were utterly void of foundation. He was occupying those rooms at the hotel, and only did that for the accommodation of her Royal Highness which every gentleman would do—he gave them up to her. When she had gone away, he was described as "running about those apartments. That was evidently, according to the meaning of the witness, going about from one room to another, as any person, so returning to his apartments would naturally do. Yet this single phrase had raised up a story against the Baron, as if he had gone about inspecting the rooms, in the execution of some secret designs against her Royal Highness. The Learned Gentleman then said, he could not leave the case without referring to a charge which had been made of a subtraction of a witness. [He then entered into a recapitulation of the facts relative to Rattelli's disappearance, as they have been already stated in the examination of J. A. Powell before the House: and defended at some length the character and conduct of that individual, as well as of Col. Browne. The latter, he said, stood impeached upon the testimony only of the witness Omali (page 879), whose evidence he described as by no means of a character to warrant the placing of any reliance upon it, and whose conduct he reviewed with much severity.) Though he repented of this, according to his own account, at the commencement of the year, yet their Lordships found him, in March, notwithstanding this statement, going for further payment to Vilmarcati, as the reward of his treachery. He was afterwards, in the month of July, upon the same errand. His Learned Friend, indeed, had said, that they must be aware of this last visit, as it was for the purpose of giving Vilmarcati a list of witnesses. Indeed they had no such knowledge. But, as it was said that Colonel Browne must have known that this witness would have been called, and ought therefore to

have been here to contradict him, he (the Solicitor General) must say a few words upon that subject. Now Colonel Browne had reason to believe that this man was sent to him in concert with Codazzi; and, long ago, he wrote over an account of what he considered to be the object of the party. When, therefore, to their astonishment, they saw this witness brought to the bar, they referred to Colonel Browne's letter, out of which they got the materials for the cross-examination. Was it, he would ask, upon the testimony of such a witness that the character of an honourable officer who had distinguished himself in his Majesty's service, was to be impeached? Was it upon the faith of such a witness's statement that the character of Colonel Browne was to be assailed, and the Milan commissioners to be assailed without stint or limit, and if any body rose in their defence, they were to be instantly put down as being incorrect, and their conduct improper? With respect to the Milan commissioners, he must say that no evidence had been adduced against them which was calculated to make the slightest impression, or to inculcate the smallest belief that they had not acted with the strictest purity and integrity. He was now glad that the topic had been introduced, for it showed that notwithstanding all that had been said, not a single fact had been brought forward to prove that the Milan Commissioners had been guilty of the smallest impropriety of conduct. It might, perhaps, be said, that some impropriety had in a particular instance attached to some subordinate agent, be that as it might, he was justified in asserting, that the commissioners neither countenanced such conduct, if it had occurred, nor were in the smallest degree privy to it. He hoped the House would consider that though he had gone a little out of his way to make these observations in justification of the Milan Commissioners, he was perfectly justified in doing so. His Learned Friends at the other side had complained throughout the case of the difficulties with which they had to contend in the defence of their illustrious client, of the disadvantages they laboured under in consequence of the want of a clear specification of the charges, and in the absence of any list of witnesses. They knew perfectly well that the only case in which such communications were made before trial was that of high treason: there only it was granted a few days before trial. Had his Learned Friends, in point of fact, these difficulties to encounter? Had they not a copy of the charges? Had they not a list of witnesses—not only a list of the witnesses, but also complete copies of the whole of their evidence? They had also, after receiving this knowledge, a long interval, named by themselves, to prepare their defence. But, said his Learned Friends,—

“ True, we have had all these advantages,

but we lost the advantage of proper cross-examination.” Was that the fact? No; for, contrary to the previous decision of their Lordships, they were permitted twice to call back an individual for cross-examination even after his Learned Friends had waived that privilege with the whole of the witnesses. When he mentioned these circumstances, he did so with no view of complaining of the indulgence which his Learned Friends had received; he merely alluded to it for the purpose of showing, that so far from her Majesty having had difficulties to contend with from the course which the proceedings had taken, never was there an accused person brought to meet a charge with so many opportunities offered in her favour. He rejoiced that such was the case: when the charge was against the Queen of Britain, every facility without limit ought to be extended to her for the purpose of affording the fullest means of establishing her innocence. With such a charge he knew it did not become the House to proceed with precipitation, nor to decide upon suspicion. They ought, and he knew they would, before they passed the Bill, make up their minds upon the truth of the charge in the preamble beyond all possibility of doubt. It was for their Lordships now then to say, after hearing attentively the whole evidence in the case, whether the charge was not substantially made out against her Majesty. He and his Learned Friends with whom he acted had now to take leave of this great question, the long and tedious and painful labour, which it had imposed upon them. They could not, however, do so without acknowledging the courtesy and kindness which they had invariably received from their Lordships, and which in no small degree assuaged and mitigated the pain of the duty they had to discharge. He now acknowledged with gratitude this kindness, and thanked their Lordships for the indulgence he had received. Never came a cause into a court of justice attended with so much severe anxiety at its entrance and during its progress to a final result. Every passion had been successively applied to by his Learned Friend in conducting the defence of her Majesty. They had indeed well and faithfully discharged their arduous duty to their illustrious client. Of their mode of conducting the defence he made no complaint; he rather rejoiced that such great talents had been exercised in behalf of a Queen of England, called upon to meet such a charge. His Learned Friends had indeed endeavoured to awaken all the sympathies and passions of their Lordships for their client; they had even in her cause appealed to the basest of all passions—fear; they had done so too to the peers of a country renowned for its fame and valour; to them they had ventured to appeal to so base a passion. Their Lordships had been told that

they would commit an act of political suicide, if they passed this bill; they were again told by one of his Learned Friends, that they would pass it at their peril; these words hung long enough upon his Learned Friend's lips to be understood, though they were immediately after affectedly withdrawn. He was astonished at the introduction of such topics, for they could only have an injurious effect upon those from whom they proceeded. He (the Solicitor-General) knew well that their Lordships would not dare to be unjust; at the same time he knew that what justice required they would be prepared to do, without reference to any consequences. It was not here alone that these artifices were resorted to; the same course of intimidation had been pursued out of doors, and attempts of every description were repeatedly resorted to for the purpose of exciting apprehension. Even the name of her Majesty had been profaned (undoubtedly without her consent) for these purposes; her name had been used in attacks against all that was sacred and venerable in the constitution, the sovereignty, the hierarchy, against all orders in the state. These attacks could not have proceeded from her Majesty, though made under her sacred name; they sprung from those who sheltered themselves and their dark and mischievous designs against the state under the shield of her Majesty's name; her Majesty could never be supposed to aim an attack at the constitution; if she did, it might hereafter be said,

————— Capitolio  
Regia dementes ruinas,  
Fumus et Imperio parabat—

If their Lordships thought the guilt of the Queen clearly established by legal evidence, then they had but one duty, and that was to pass the bill. If they did not think the case made out by legal evidence, then and then alone could they, in the fine language quoted by his Learned Friend (Mr. Denman), say to her Majesty, "Go thy ways, and sin no more." If, however, they were satisfied by bending their minds to the whole of the evidence, looking at it with just and dispassionate feelings; if they saw no real doubt in the case, then, knowing the upright judgment of the tribunal which he had the honour of addressing, he was sure they would pronounce their decision with that firmness which became their exalted station and upright and dignified character. The Solicitor-General terminated his speech at a quarter before two o'clock.

#### BARON OMPTEDA'S LETTERS.

Mr. Brougham then requested permission to address their Lordships. He said he was quite aware that he had no right to be now heard, but he threw himself upon the house for permission to explain the mistatements,

he knew the accidental mistatements, of his Learned Friend who had just sat down. He was most anxious to inform the house, in explanation of the interposition he had made during the pause in the Attorney-General's speech, by the introduction of the Baron Ompteda's letters. He felt it his solemn duty to entreat their Lordships to have these letters explained: he on the former occasion took the earliest opportunity of tendering them to their Lordships on behalf of her Majesty. It appeared to him that they were admissible in two points of view. In the first place, in an ordinary trial, he was convinced no judge would exclude material and important testimony accidentally coming before the final judgment, open of course to the ordeal of cross-examination, and of being rebutted, if possible, by other evidence. If this would be permitted in a tribunal purely judicial, it surely would not be excluded when a legislative proceeding was pending like the present. He hoped he might be permitted to say that he thought this evidence was very material in two points of view. In the first place, it most distinctly and unequivocally brought home acts of agency to Francis Baron Ompteda, by whom these letters were signed. It explained away the whole effect of his Learned Friend the Attorney-General's observations, that of the name of "Baron Ompteda they had heard so much and seen so little." These letters would now entirely undeceive his Learned Friend upon that point. It was singular, but so the fact was, that he should have got these letters almost at the instant when his Learned Friend was in the act of commenting upon the want of such testimony. These letters fixed an agency for the prosecution upon the Baron Ompteda, and showed him to be perhaps the least scrupulous of all the agents employed, in a case in which so few scruples were observable—an agent, who was most actively and anxiously engaged in endeavouring, by the most discreditable means, to twist something like evidence out of her Majesty's servants. These letters showed Ompteda endeavouring to employ a police-agent, with the countenance of that agent's government, to seduce two of her Majesty's servants to give evidence against her. Through that police-agent Ompteda carried on a correspondence between De Mont and her sister, Mariette Brun. In this correspondence the anxiety of De Mont was apparent, that her sister should be retained in the Princess's establishment, for what purpose their Lordships might easily guess. It appeared from these documents that De Mont, through the means he had already stated, kept up a correspondence with her sister: she carried it on at the very time when she was in the hands of the Milan Commissioners. She carried it on through the means of this Baron, who was the Hanoverian minister, the agent of Count Munster,

and the principal person in that system of foreign diplomacy, to the machinations of which their Lordships owed the task of sifting this unhappy question. It would appear from Ompteda's letters, that it was not only Mariette Brun whose assistance he required, but also Hieronymus, of whom it seemed he had even ventured to form hopes, for he thought he might be safely trusted. Colonel Olivieri he also wanted: he says, in one of his Letters, "Can't you get at him?" He afterwards writes—"I fear she has recently got a great number of Roman persons into her service; I should be very curious to know their names"—for what purpose he need not remind their Lordships, when they looked at this Baron's whole conduct. And all this was done with a rouleau of Louis in his hand to carry on the traffic. These letters would furnish the answer to his Learned Friend's questions of—"where was Hieronymus?" "Where was Mariette?" It was acts like these of the Baron that involved the English ministers, in a case to the early proceedings in which he believed they were alien. The case was forced upon them by the conduct of this Hanoverian agent, and it was most material that the letters he now held in his hand should be read by their Lordships. Their contents.

The Attorney-General.—"My Lords, I object to the course which my Learned Friend is taking. It is highly irregular after the case is closed to proceed this way in reply."

The LORD CHANCELLOR. What is it you say, Mr. Attorney-General?

The Attorney-General said he was complaining of the course about to be taken by his Learned Friend; but he now found that Mr. Brougham had finished. In reply to his application he must now say that it was the most extraordinary one he had ever witnessed. If he had the talents and learning of his Learned Friend arrayed at his side, and that he (the Attorney-General) on the other had ventured to make such an application, then indeed his Learned Friend might exclaim—"Is this a court of justice in which such an application is made?" His Learned Friend knew the inadmissibility of his application, and therefore ought not to have alluded as he had done to the contents of a supposed correspondence which he knew could not be received in evidence. It was brought forward too, after his reply, and when the case as to evidence was necessarily closed. He denied that at any period of the case Baron Ompteda's letters or declarations, whatever they might be, could be received as evidence in the cause. There was no pretence for urging these letters as evidence in this manner. It was therefore unbecoming for his Learned Friend to have stated the substance of any communications like these, which he must own he was debarred from

legally using as evidence. He had, indeed, remarked upon the extraordinary coincidence of the production of the letters when the case was closed. He imputed nothing to his Learned Friend, who had fully explained the manner in which the letters reached him; but it was extraordinary that others should have kept back these letters until such a period. His Learned Friend had not said one word of the dates of the letters, or to whom they were addressed.

Mr. Brougham—O, I have not the least objection to read them to my Learned Friend: (*Loud laughter.*)

The Attorney-General resumed, and called upon the House to observe the adroitness of his Learned Friend, who, when asked respecting the dates and superscription, immediately volunteered to do that against which he (the Attorney-General) was entering his protest—namely, to read the contents of the letters. (*A laugh.*) He begged to decline the boon tendered to him by his Learned Friend. He hoped he should not be caught in the dexterous attempt made by his Learned Friend. He contended that it was impossible these documents could at any period be received in evidence.

Mr. Brougham disclaimed meaning to take any dexterous advantage as it was called, of his learned friend, in proposing that the letters should be read. As he was called upon for the dates, he begged to say that one was dated the 24th of February, 1819, and the other, the 6th of March following. The person through whom they were addressed was the director of the police at Pesaro, for the Roman government—a sort of agent there of what might be called the home department. (*a laugh*) With respect to the comments upon the evidence in the case made by his learned friend, he should say nothing, as he knew he was not entitled to make any reply; and he should not trouble their Lordships for another reason, as well as his not having a right; for he did not feel pressed to any great necessity by the arguments or observations so made. Were he to attempt to make any reply, he should, he knew, in vain try to rival the eloquence of his learned friend. (*cries of "order" in the house.*) He (Mr. Brougham) hoped he was not irregular; he was certainly not alarmed. His learned friends, respecting this correspondence of Baron Ompteda, in the first place complained that the letters were not earlier produced, and then, in the next, they said that at no period of the case could they have been admitted in evidence. The objection now was, however, that they had come too late. These letters, he again repeated, would throw a complete light upon Baron Ompteda's conduct as an agent of the Milan commission—as one of the most active and least scrupulous agents employed by these extraordinary commissioners. These letters showed the



efforts of the Baron's agency—his attempts to suborn Mariette Brua, his desire to get at Hieronymus; they would expose the whole system of his tampering with her Royal Highness's servants, and explain the reason why her Majesty's counsel had not called the witnesses whom his learned friends opposite had expressed such astonishment at not seeing. They knew that the Baron had been tampering with three or four, and how did they know that similar attempts might not have been made with respect to others? It was therefore natural that they should not have wished to call Mariette, and they now found that their anticipations had been most correct, and that if they had called her she might have turned round on them, and instead of being their witness, might have been a witness for the other side. Now he contended that the letters which he had in his possession afforded ample proof of the discretion they had exercised in this respect—

The Attorney-General submitted to their Lordships that his learned friend Mr. Brougham was not confining himself to the papers, but in fact replying to the speeches on his (the Attorney-General's) side. (*Hear, hear.*)

Mr. Brougham maintained that he was replying to the observations which had fallen from the Attorney-General not a quarter of an hour ago. (*Cries of No, no, from several peers.*) He was stating a few facts for the information of any of their Lordships who might not have attended to him before. He contended, then, that it was natural for himself and his Learned Friends as counsel for her Majesty to have suspected—

The Attorney-General here again begged to interrupt his Learned Friend. It was, he conceived, not necessary to refer back to what passed before; it was the admissibility of those papers to which he (Mr. Brougham) should confine himself. Now he (the Attorney-General) denied that those papers were admissible. Let his Learned Friend show any ground why they were so.

Mr. Brougham said, he would confine himself to that. It was stated by the Learned Attorney-General, that the conduct of Ompteda had no connexion with the case. Now, he would show that there was sufficient proof of Ompteda's connexion to be in the evidence which he now offered. Majochi was examined as to this, and shuffling very much, another witness was called to contradict him. In the evidence of that other witness, Carrington, it was stated that Majochi had spoken of Maurice Credi as the agent of Ompteda.

The Attorney-General.—In what page is this?

Mr. Brougham replied that it was in Carrington's evidence. His Learned Friend

could have no difficulty in finding it out as he (Mr. Brougham) went on.

The Attorney-General said a few words, which we could not catch below the bar.

Mr. Brougham repeated, that what he was stating was distinctly in the evidence of Carrington. In page 579, in Carrington's evidence, their Lordships would find the following questions:—

"Did Majochi ever tell you that Ompteda had employed some one to get the keys belonging to the Princess at Como, in order to get false ones made?—He did.

"Did Majochi ever tell you that a person had confessed that he had been so employed, and was discharged in consequence?—He did.

"Did Majochi ever tell you that if the Princess would have allowed him, he would have killed him like a dog?—He did.

"Killed whom?—Baron Ompteda.

"Did Majochi state that Baron Ompteda was very ungrateful after he had so long ate and drank in the Princess's service?—He did.

"Did he frequently mention the name of Ompteda?—He did, often." So far there was evidence of Majochi's knowledge that the Baron Ompteda had been an active agent in this business. Their Lordships would find in the examination of Lieut. Hownam there was evidence of Maurice Credi's confession in the presence of her Royal Highness. They would find that Lieut. Hownam there spoke of Credi's confession on his knees.

The LORD-CHANCELLOR asked in what page?

Mr. Brougham replied that it was in page 777. The question was—

"Did Maurice Credi continue in the service of her Royal Highness after you saw him upon his knees? He continued in the service of her Royal Highness as far as Nuremberg, on the journey to Vienna."

Their Lordships would also recollect that Rastelli was sent to Credi, and they must remember by whom he was accompanied, by Mr. Cooke, the head of the Milan Commission. Rastelli said, that he went to Frankfurt; that Mr. Cooke accompanied him to see Credi.

The Attorney-General said one or two words in objection (we believe to the course Mr. Brougham was taking), but they were not audible below the bar.

Mr. Brougham in continuation said, that in Mr. Hownam's evidence in page 764, there was further proof of the confession of this servant, Maurice Credi, respecting the conduct of Ompteda. Mr. Hownam was asked—

"Did any facts, to your knowledge, occur

at the Princess's residence that occasioned the quarrel between you and the Baron Ompteda: By the confession of a servant; I saw that servant on his knees begging pardon for his crime."

The words, "by the confession of a servant," were objected to at the time by the Attorney-General, and their Lordships seemed to be of opinion, that the witness (Hownam), knowing this only by the confession of a servant, could not be said to know it all. Mr. Hownam was further asked before whom was the servant kneeling, and what was his name; and he answered, "Before the Princess of Wales, and his name was Maurice Credi." He (Mr. Brougham) only referred to those facts for the purpose of showing that sufficient had been said respecting the interference of the Baron Ompteda to let in the additional evidence of the letters which he offered; and in referring to this, he did not expect to be interrupted, as if he would wilfully mistake the evidence. If they (the counsel for the Queen) had acted thus towards their Learned Friends, they might have had very frequent opportunities of interrupting them in their references to the minutes. However, he thanked them sincerely for the interruption, and they would no doubt duly appreciate the sincerity of his thanks. He thanked them for the reference to the exact words of the minutes. For there he found the thing was much stronger than he had put it. The question was, "Before whom did that servant kneel, and what was his name?" and the answer, "Before the Princess of Wales; his name was Maurice Credi." Now this Maurice Credi had never been produced. He (Mr. Brougham) cared not whether he was in a Dutch fortified town, or in the fortress at Milan, or in the garden establishment—that rural retreat, in their Lordships' neighbourhood, which, though not strictly a fortress, was equally well guarded; he could not come at him in any of those places. The former he could not storm, and in the latter he could not reach him by any civil or criminal process; but if he had been produced, he would have established the fact for which he contended, beyond the possibility of doubt. As it was, he maintained that there was fully sufficient matter before their Lordships to admit this, and he now asked them in the name of public justice to receive the papers which he offered. He had, he conceived, said enough to show its importance for the ends of justice; and as the question now was, whether a Bill of Pains and Penalties should pass, aye or no, they were bound in strict justice to admit what he now offered. Whatever might be done under such circumstances in the courts below, he thought it ought not to militate against his offer in this case. It was possible it might be admitted in the courts below. He knew not whether it might or not, but

grant that it would be refused, he contended that they could not be refused here. If they proceeded upon all the strict rules of evidence, could they convict under (if their object was justice, and not to serve a party—if they wished for truth, and not the ruin of an individual) such circumstances as those before them? He wished to God that they were trying this case upon strict law, for in that event it would be impossible to affect his illustrious client; but they were engaged in legislating upon a Bill of Pains and Penalties, enacting a private statute, and creating an *ex-post facto* law, which was to destroy his illustrious client upon such evidence as they had heard—evidence did he say? no there was no evidence to support it. (*Murmurs within the bar*)

The Attorney-General put it again to their Lordships whether or not his Learned Friend had not offered those letters for the opportunity of making a speech in reply to the concluding address of the counsel for the Bill? What did their Lordships now hear after all, but that they were not to be guided by the ordinary rules which they had hitherto followed, but that he (Mr. Brougham) should be allowed to bring in any evidence which he might think material to her Majesty's case, and that their Lordships had no discretion but to receive it. With respect to the nature of the evidence to which Mr. Brougham alluded, he (the Attorney-General) felt no alarm, but he maintained, that if their Lordships adhered to the rules they had hitherto followed, there was not a tittle of ground for admitting this evidence. He denied also that what had been said in the evidence with respect to Maurice Credi's begging pardon before her Royal Highness, was any sufficient reason for the production of those papers. As to the evidence of Carrington, he was called to contradict Majochi; but whoever heard that what he said of what he heard Majochi say respecting another could be evidence as against that other? He then submitted to their Lordships that there was no just ground laid for the introduction of these letters, though he repeated, that he was not afraid of them as affecting his case if they were produced. Their Lordships, however, would be the best judges whether the papers had any material bearing on the case, and if so, whether a just ground had been given for producing them. He could not conclude his observations on this subject, without complaining of this conduct on the part of her Majesty's counsel, who, when they found themselves pressed, had resorted to such contrivances as the present. Was it now meant to be said, on the other side, that those letters were the reasons to be given for the non-production of Hieronymus?

Here there were some cries within the bar of "order" and "adjourn."

The LORD-CHANCELLOR observed, that according to the practice of the courts below, after the reply was heard, the counsel on the opposite side had no right to offer any observations except as to the case, quoted. He had seen what was passing at their Lordships' bar, and he could state that, in an experience of 45 years, he had hardly ever seen the rule to which he had just alluded strictly observed. Counsel generally, when they replied to cases, diverged a little to the reply of those on the other side, whenever they could. He did not say that they had any right to do so, or that it was strictly just, and it was generally done. As to the case here, he should remark, that he was certain would be the fact, that no attention would be paid to such observations.

The Attorney-General now observed, that he would not trouble their Lordships with any further remark.

The LORD-CHANCELLOR said, with reference to the request of counsel to have those papers received, he had yet to learn what connexion there was between those letters and the evidence of Credi or Majochi. Credi was not a witness before their Lordships; and as to Majochi's declarations respecting him, they might be evidence that he said so, but they could not be evidence of the truth of what was so said. But still there should be something done to show what these papers referred to, whence they came from, and what they were. As it was, he was of opinion that they were not evidence.

The EARL of CARNARVON was of opinion that the papers offered by counsel ought to be received. He conceived that the question ought not to be, whether they had any bearing on the facts which appeared in evidence, but whether they bore on the character of the whole proceeding. What was the character of the present proceeding, were their Lordships aware? Was it of English or of German origin? He had heard the Noble Lord at the head of the treasury state some time back, that he was at the head of this inquiry, but how was this proved before their Lordships? From all that they heard and seen, must they not feel that though the Noble Lord (Liverpool) might be responsibly at its head, yet that there were still strong proofs of German agency, and that, too, agency of no very little activity, which might be traced to the ministers of the King of Hanover, and running parallel with the inquiry as connected directly with this country. When their Lordships saw this, and when they found that evidence was offered at their bar to prove subornation of witnesses by German agents, in addition to evidence of subornation already before them, could they, he asked, in such a case attempt to go to

final judgment on the measure, without first proceeding to some inquiry without looking to the nature, character, and origin of the whole matter? He contended that, if they wished to maintain their independence, the question now before them resolved itself to this—whether they would uphold their privileges as English Peers, or to be the instruments of the King of Hanover? If their Lordships proceeded to a final deliberation on the bill, without inquiring into this apparent conspiracy, (for he maintained that they had sufficient evidence before them to warrant that expression,) they would be guilty of a total dereliction of their duty, and of manifest injustice to the illustrious party accused.

The LORD-CHANCELLOR now put the question, whether their Lordships would receive the papers offered, and it was carried in the negative.

The EARL of LIVERPOOL (as he believed) rose, and was moving that their Lordships should adjourn, when

The DUKE of HAMILTON rose. He began by expressing his regret that his Noble Friend (Lord Carnarvon) had not concluded with a motion that the papers offered by counsel should be received. If there was any point connected with the present unfortunate proceedings upon which their Lordships ought to require full information before they went further, he contended; that it was on the conduct of the Milan commission, and some transaction to which that gave rise. If the Noble Lord at the head of the treasury (Lord Liverpool) was earnest in his search for truth, if he wished to see strict justice done to all parties, he ought, in his (the Duke of Hamilton's) opinion, to endeavour to divest himself and the government with which he acted, of any participation in Hanoverian whispers. He confessed that, when he saw what share had been taken in this affair by the Hanoverian minister, he did suppose that there would not exist a wish but to examine further into it. (The Noble Duke here spoke in so low a tone that he was for some moments inaudible below the bar.) When we again heard his Lordship we understood him to give his solemn protest against the whole of this measure as extra-constitutional in its nature and unjust in its operation. In an inquiry like the present, he added, it was the bounden duty of their Lordships to investigate all the evidence which was offered, and therefore they ought not to refuse the letters now proposed to be put in by her Majesty's Counsel. In order to substantial justice, he thought those papers ought to be received, and with that view he should conclude by moving that the papers offered by counsel should be admitted; and as he considered it was of importance, for the sake of justice, he should take the sense of the house upon it.

EARL GREY observed, that at the commencement of this investigation, he had stated his objection to a Bill of Pains and Penalties, which he considered could never be justified except by some strong and pressing state necessity, which could be assisted by no other mode. Such state necessity he did not think now existed, and he had recorded his opinion to that effect by entering his protest against this Bill. But their Lordships, having entertained the measure, had been occupied for 40 or 50 days in hearing evidence for and against the bill. At the commencement of the proceedings their Lordships had, without abandoning their right not to be fettered in their inquiries by the practice of the courts below, consented to have their proceedings regulated by the rules which were observed in those courts. The question now was, whether in the last stage of the business they would depart from the rules they had hitherto observed. The Learned Lord on the woolsack had stated, and he (Earl Grey) agreed with him that the papers offered would not be evidence in the courts of law. In that case the question was how far they were so material as to render a deviation from their usual practice expedient? His Noble Friend (the Duke of Hamilton) had said that these papers might be necessary in order to go into an inquiry on the subject of the Milan commission. He agreed with him, that that ought to be made the subject of inquiry, and he supposed such inquiry would be long and tedious, but was this the proper time or place for it? He did not think so, and therefore, however reluctantly, he would vote against the motion.

The EARL of CARNARVON rose to support the motion. He was sorry to differ from his Noble Friend (Earl Grey) on this or any point, but in every view which he took of the motion he thought it ought to be complied with. Their Lordships were not then sitting merely in a court of justice. Their present occupation was of a mixed character. They were acting at once as judges and legislators. He would admit, with his Noble Friend, that as judges they might be confined to the ordinary rules of law; but could they as legislators, consider themselves bound by those rules? They were now called upon to decide upon this most important measure, and how, he asked, could they come to a fair and impartial decision without inquiring into the whole character of the proceedings, without knowing this was an honest English Bill, or a German conspiracy? If they sought for information on this important point (and he maintained that they were bound to seek) their inquiry ought to be full and complete; but how could it be either, if they rejected the evidence now proposed to them? Would they as a jury pronounce a verdict, whether they knew that evi-

dence was at hand which would more fully explain the nature of the case before them; would they, he asked, come to a decision without going into such evidence? As judges, he had said, they might perhaps be bound by rules which would exclude such evidence, but this did not apply to them in their character of legislators. Could their Lordships think of coming to the horrible vote without hearing what was offered on this most important subject connected with the case—could they aid the hand of power extended to crush an individual, and then shelter themselves under their mixed characters as judges and legislators? He hoped for the sake of honour—of justice, they would not. Let them recollect that the eyes of their country, that the eyes of the whole world, were at this moment fixed upon them; and without shrinking from the performance of their duty, let them take care that justice was done to the people of England—that that justice was done to the illustrious accused which it was their duty to do, and which their country expected from them. He concluded by declaring his full concurrence in the motion of his Noble Friend.

EARL GROSVENOR felt regret at being obliged to differ from his Noble Friend, who made this motion. At first he was induced to give it his support, but when he recollected that the general principle upon which it went was already decided, he thought it better that it should not be urged in this stage. He was of opinion that their Lordships, if they went into the inquiry respecting a conspiracy in this case, they ought not to go into it partially, but he thought that such an inquiry as the motion pointed must be partial and ineffectual. It was therefore better not to go into it at present. At another time it would be the subject of investigation, and then he should have no objection to enter into it fully.

The LORD CHANCELLOR wished to know distinctly what course the Noble Duke intended to pursue.

The DUKE of HAMILTON observed, that he had already declared his intention of taking the sense of the house on the question of receiving this evidence.

The LORD CHANCELLOR was of opinion that the question was already disposed of, and that it had been decided that the letters should not be received in evidence.

EARL GREY thought the better course would be to put the question in a formal and regular way.

LORD HOLLAND suggested, that if this evidence was to be received, it would then be incumbent on them to go further into the new inquiry which would by that means be opened. For his own part, he felt himself quite exhausted by the length to which the main investigation had already ex-



tended. His reason, however, for the vote that he should give on this question, was—and it would afford him great satisfaction to find that others were equally influenced by the same reason—that he was determined to vote against the Bill itself, on principles which had often been maintained in that house on former occasions. (*hear, hear.*) He did think also, that no man could give an honest vote the other way, without first sifting and examining every part of the subject, and acquainting himself with the real means by which this prosecution had been set on foot. He himself, indeed, felt no desire for such an investigation; he wanted not, after so long an inquiry into the conduct of the Queen, to be led into an inquiry as to the proceedings of Hanoverian ministers. These, however, who proposed to say Content to the second reading of a Bill like this, were bound to assure themselves that it had been brought forward by just, legitimate and constitutional means.

The MARQUIS of LANSDOWN agreed that the evidence in question was not admissible, in consequence of the rule which they had themselves previously laid down. But it was one thing to say that the evidence in question formed no material part of the inquiry, and another to say that, in accordance with this rule, they were prevented from receiving it. Their Lordships had, during the course of these proceedings rejected evidence tendered in support of a charge of conspiracy on the one side, and were bound, therefore, to exclude it on either side. It could not be becoming to receive it at this closing part of the general inquiry. Undoubtedly some amongst them had a deep interest in the production of this evidence, and more especially the Noble Earl opposite (Liverpool), who had said, that no foreign minister had been authorized to interfere in this business, and that the whole had been left to the conduct of the Milan commission. But it was not on that account, or for the gratification of any Noble Lord, that the house ought to be induced to depart from the rules which it had laid down. Inconvenience might, no doubt, be experienced, but it was only a part of that general inconvenience which had attended the whole of this proceeding, and he feared would continue to attend it till its close. It was evident that this circumstance would entitle the illustrious person accused to a favourable consideration on the second reading of the Bill, but he felt himself compelled to negative the present motion.

The house then divided.

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Non-Contents ..... 145

Majority against the motion .. 129

The house immediately adjourned till Thursday morning.

## LIST OF THE PEERS

*Who voted for receiving Baron Ompstead's Letters.*

|         |           |          |           |
|---------|-----------|----------|-----------|
| Dukes   | Hamilton  | Earl     | Albemarle |
|         | Leinster  | Viscount | Clifden   |
| Marquis | Downshire | Lords    | King      |
| Earls   | Thames    |          | Downe     |
|         | Cowper    |          | Foley     |
|         | Carnarvon |          | Alvanley  |
|         | Suffolk   |          | Duncan    |
|         | Kennedy   |          | Kenny     |

## House of Lords,

THURSDAY, NOVEMBER. 2, 1821.

The House met this morning pursuant to adjournment. The Lord-Chancellor sat his seat at ten o'clock, after which prayers were read, and the peers called over.

LORD GAGE gave notice, that it was his intention to propose that the standing order relative to the voting of peers should be enforced. He therefore now moved that the same be read. The clerk accordingly read the order, which directs that the question shall first be put by the Lord-chancellor or the Speaker of the House, and that every Lord shall rise uncovered, and give his vote, &c.

LORD HOLLAND said a few words on the object of the order, according to which, he thought, it would be necessary to call over the names of their Lordships at the table. This practice might be very proper if every peer, being accustomed to vote in that way, knew when his turn came. But this was not the usual mode. Instead of simply saying "content" or "non content," the order required that every peer, standing up in his place, should give his vote by saying "content" or "non-content." The speaker would then declare what the result was; and, if any peer was not satisfied with that declaration, it would be competent for him to call for a division of the House.

The LORD-CHANCELLOR then rose to call the attention of the House to the Bill of Pains and Penalties. The question which their Lordships were now called upon to consider, he apprehended, notwithstanding all that had passed, was still whether this bill should or should not be read a second time. It was not to be expected that any other suggestion would in this stage be offered, and he therefore did not conceive how, on sound principles, there could now be any other question proposed to their Lordships, except whether this bill be read a second time or not. In considering this question, then, he presumed their Lordships would follow the course which was usually adopted in bills of divorce. The ordinary course in such cases was, after the allegations and proofs in their support had been laid before the House, for

the person who had the honour to sit on the woolsack to state his opinion. If it should be his opinion that the facts were proved, he, of course, intimated that opinion to the House. If any Noble Lord opposed that opinion, the question became a subject of discussion; but if no Noble Lord dissented it then followed, as a matter of course, that the Noble Lord who had taken charge of the bill should move that it be read a second time. When they came to the committee, there were precedents for different modes of proceeding. Their Lordships were aware, with regard to the preamble of a bill of divorce, that it was not unusual to postpone it in the committee until after the other parts were considered, where special grounds were laid for that course. But when the question that the preamble be postponed is put, it is always competent to any Noble Peer to oppose it, and to insist that the preamble shall not be postponed. And here he must state that he apprehended that, if the House thought fit, new matter might be introduced into the preamble, as well as the enactments. This power he, however, thought was limited; for, though their Lordships might either alter the preamble or the enactments, he was of opinion that that could not be done except for the purpose of mitigation. Having stated thus much respecting the course of the proceedings, he had now to address them on the proof by which the Bill was supported; and, in presuming to give his opinion, he was sure their Lordships would allow him to express the distress and pain he felt on coming to this part of the subject. Nothing could induce him to address their Lordships on this question, if he did not feel that the task was one of public duty, from which he could not retire. [Here the Noble Lord spoke in a tone of strong regret, and his voice occasionally fell so much that he could not be distinctly heard.] There were many circumstances which were calculated to induce him to wish not to come near this subject, and which would have withheld him, had he not been impelled to take part in it by his sense of duty. But, whatever might be the result, he felt that this was a duty which he was bound to discharge, and therefore he would not shrink from it. Coming, however, to the ground on which a decision was to be given, he must observe that the question for the second reading could only be supported upon a belief that the charges in the preamble of the Bill were made out; for no man could vote for that second reading if he should think the preamble not proved. In other words, he meant to state, that, unless he was satisfied that the adulterous intercourse alleged to have existed had actually taken place, he could not vote for the second reading; and certainly no Noble Lord could so vote if he were not satisfied with the proof of that adulterous intercourse. He should now very shortly state what his duty to the

House required him to submit to the consideration of their Lordships. And here he must observe, that his duty was not to sum up the evidence, but to give to their Lordships his opinion upon it, and to state his reasons for that opinion. They all sat there in the character of judges and jurors. What they had to do was to communicate to each other their opinions, and to discuss the grounds on which those opinions were founded. Following this course, he had, in the first place, to notice the nature of the measure. Much had been said, in the way of objection, to proceedings by Bills of Pains and Penalties. The question of the merits or demerits of measures of that description it was not his wish at present to discuss; but he was desirous of stating, in a few words, his opinion respecting them, which was, that, generally speaking, such bills were not justifiable, unless the safety of the country was at stake; and that, looking back to the Revolution—the period to which it was proper to refer in considering such measures—Bills of Pains and Penalties had been passed without any such necessity to justify them. But, while he made this admission, he must also repeat what he had frequently stated in former discussions in the course of these proceedings, that he thought Bills of Pains and Penalties were favourable to the persons accused. He said this without meaning to enter into the question of their constitutionality, which made quite a separate subject of consideration; but what he would maintain was, that they were more favourable to the accused than proceedings by impeachment, especially if their Lordships agreed that the testimony in their support should be given according to the ordinary rules of evidence, and that the ordinary rules of law should guide them in the decision on that evidence. Their Lordships must be aware that a proceeding on impeachment before the House of Commons was altogether *ex-parte*. One single vote of the House of Commons decides whether there shall be a vote or not, and that vote may be given in error. The proceeding was not similar to those in their Lordships' House, where the ordinary rules of evidence were attended to. There was in the other house only one occasion upon which the members had to come to a decision; and if, upon that one occasion, an error was committed, it could not be redressed. Now how different was the case with respect to a Bill of Pains and Penalties! When such a proceeding was adopted, it rendered necessary examinations of the testimony in both houses; and opportunity after opportunity occurred for consideration, and correcting any error which might arise. Indeed, on a Bill of Pains and Penalties, a variety of of such opportunities must be constantly offering themselves; and the error of the

day could be corrected to-morrow, and that of to-morrow on the next day. It had, however, been argued, that, in adopting this proceeding, their Lordships were submitting themselves to the decision of the House of Commons; but they did not do that in every divorce case, and on all other bills which originated first in their Lordships' house. The case might have been much more anomalous had the proceedings been first by impeachment, and afterwards by a Bill of Divorce brought in upon the impeachment. If that mode of proceeding by two bills had been adopted, might not the House of Commons be involved in a very great contradiction when they came to consider both sides of the question on the Bill of Divorce. It had been made another subject of complaint that no specific charges and no list of witnesses had been given to her Majesty. He thought it right to mention this, because it had been contended that the party accused was thereby placed in a situation of difficulty. If any difficulty did arise from this circumstance it was their Lordships' duty to consider it, and to give the accused the benefit of it by proportionally inclining in her favour; but, with respect to the first circumstance, where was the difficulty? What specification of charges could be more complete than the examination of witnesses at the bar? and as to the list of witnesses, what way could be so effectual of communicating their names as by producing them at the bar? What degree of difficulty could arise, when, after the charges were fully gone into, and all the witnesses examined, the defence was postponed to the period the accused considered most convenient for making it? He was ready to admit that the being deprived of immediate cross-examination might be a loss; and, with regard to the absence of Rastell, he had already given his opinion: but he must contend that the loss of immediate cross-examination was not in any degree equal to the advantage the accused derived from hearing the whole case, and then obtaining time for the defence. If there was disadvantage, this disadvantage was almost reduced to nothing by the postponement of the defence. There was, however, one great principle of justice, to which their Lordships were solemnly called upon to attend with regard to every proceeding which came before them as well as the present—namely, that accusation is no proof of guilt: a person accused may be innocent, and they were bound to suppose innocence until guilt was proved. It was their bounden duty, whether on a Bill of Pains and Penalties or of Impeachment, not to pronounce an opinion of guilty until the evidence produced that conviction. They had likewise to look at the nature of evidence, and the means by which it was procured in this case, and to consider the difficulties there might be in obtaining testi-

mony. If they found that in this case there had been more facility in procuring witnesses in support of the Bill—as had been urged, and might be taken for granted—than in finding witnesses to answer it—if they thought that this was the fact, then the accused ought to have the full benefit of it. Their Lordships had also to consider the circumstances which had been disclosed with respect to Rastell. There might have been corrupt means used by him and others to procure evidence, and of that circumstance the accused ought to have the advantage, not only in as far as it led to suspicion with respect to the evidence of such persons, but with respect to that of others, to which similar corruption might be suspected to apply. In forming his opinion he had endeavoured to give all these considerations their due weight; but the ground on which he had formed his opinion was this—laying aside all testimony that could be suspected, and taking together the evidence which was unsuspected on the part of the prosecution, and the testimony in answer, with the negative evidence, or want of evidence, which might have been produced, does it, or does it not, support the allegation of an adulterous intercourse? This was the course he had taken in viewing the case, and he was now about to deliver the opinion which, with the most painful and anxious attention, he had formed. He apprehended that, if their Lordships looked at one or two cases or circumstances which had been proved—if they looked to a few facts which had been proved by witnesses quite above all suspicion, and on whom no suspicion had been attempted to be cast—they would then be able to pronounce an opinion on the charge of adultery. Looking at the case in this point of view, it did appear to him, and it was with the utmost pain he said it, that he could draw no other conclusion than that there had been an adulterous intercourse. (*hear, hear.*) With respect to contradictions, and the contradictions which it might be said had been given to the evidence, it had been his duty very frequently to consider the effect which contradictions might have in summing up the judgment, if he might use the expression, in cases which had come under his observation. It might often happen, in the course of a trial that circumstances were proved which might have no effect upon the real question at issue; and it might also happen that facts were alleged which it was impossible for any party to contradict. But, in cases where persons were called who spoke to a particular fact, other persons being present, and no contradiction was given with respect to that fact (those persons being within the reach of the party whose interest it was to disprove the fact), then it appeared to him the circumstance of these persons not being called amounted to a tacit

admission that the fact so charged was incompatible of contradiction. Now suffer him for a moment to lay out of the case all the evidence which has been called in support of this bill—to lay out of the case the evidence of Majocchi, and De Mont, and Rastelli—(and when he desired that these persons might not, in many circumstances, have spoken the truth)—but laying out of the case of the whole of this evidence, let their Lordships travel with him to the palace. Now who went on board the polacre with her Royal Highness? There was Schiavani, Hieronymus, Bronn, the Countess Oldi, Carliuo, Camera, and William Austin. He thought their Lordships would feel with him, that if they were trying the mere question, whether Bergami and the Princess slept under the same tent or awning, whichever they pleased to call it, there could be no doubt on the subject. If this were the mere matter at issue, their Lordships surely could find no difficulty in finding the fact. He had forgotten to mention the names of Mr. Flynn and Mr. Hownam, who accompanied her Majesty on that occasion. But their Lordships would, in the first place, look at the evidence of Paturzo, the mate and the captain. He knew of no observation having arisen on these men's evidence, except that of their receiving payment for coming here. [A Peer said something more than that had been objected to them.] He would be glad to hear what that something more was. At present he formed his opinion on what appeared to him to be the facts of the case: if more should hereafter appear, there would be sufficient opportunities for him to correct his opinion. With respect to the payment of these two witnesses, he had little to observe. He knew not how it could be otherwise, for there was no compulsory process by which foreign witnesses could be brought to that fact. Persons within their jurisdiction might be compelled to attend. Courts of justice took care that all persons should be paid for the loss of their time, except lawyers and physicians. No other persons could be called without being entitled to demand compensation: and it could not be expected that foreign witnesses would come unless they were liberally paid. He would suppose, for a moment, that the captain and mate had proved the fact that her Majesty and Bergami slept under that tent—and looking to the evidence of Flynn and Hownam, to the reluctant manner in which they gave it, he thought that was strong confirmatory evidence—it still might be proved that they were not sleeping together by the evidence of every person he had named. The Countess Oldi, the maid-servants, and all the persons who slept below, might have been called, and he would ask if it were possible not to have had evidence of it? Thus it being proved that the parties had slept there,

from that and other circumstances he thought an adulterous intercourse must have taken place. Their Lordships would keep in recollection what had happened at Aum—the fact of the contiguity of the beds in every place—familiarities at different places—and all the circumstances of the elevation of Bergami, and not only Bergami, but every other individual of his family—and the important circumstance of the introduction of the Countess Oldi, without any communication to the family that she was was the sister of Bergami. Had she been a stranger, the interposition of her chamber between her Majesty's room and Bergami's would have been a strong proof of innocence, but introduced as she had been, their Lordships could at least draw no inference of innocence from that circumstance of the intermediate position of her chamber relative to the Princess's and Bergami's. What, then, was proved on board the polacre? Gargiuolo, at page 117, stated what happened on the outer voyage; and he had stated a circumstance which had not received any contradiction—he meant the fact of Bergami carrying his bed to where he could see her Majesty. He next called the attention of their Lordships to the evidence of Flynn, who had stated the different places in which each party had slept on the outward voyage; and he then asked them, after reading that evidence, correct and definite as it was in every particular relative to the arrangements of the sleeping cabins on the voyage out, to consider how it came to pass that he, who knew every thing regarding that voyage, should know nothing, or next to nothing, about the arrangements on the voyage home? Flynn was not able to speak distinctly to the important fact, whether her Royal Highness and Bergami had slept together under the same awning or not on the voyage home; but he could speak clearly as to every thing on the voyage out. Considering that circumstance along with others which had come before them, could they doubt that the crime of adultery was committed in the tent?—There was an observation in Mr. Hownam's evidence which deserved the consideration of their Lordships. He stated that it was necessary that somebody should be along with her Royal Highness in the tent. If such a necessity existed, the fact must be known, and if it was known, why was there so much reluctance and difficulty in stating it? His Lordship next adverted to her Majesty's being seen sitting on a gun, and also upon a bench on the deck of the polacre, with her arms round Bergami's neck—a circumstance which had been proved by Gargiuolo and Paturzo, and which had not been contradicted by a single witness. Unless he had misunderstood the nature of every divorce cause which had been before their Lordships or the courts below during the course of his expe-



rience,—and unfortunately there had been in that time a great deal too many—the inference which their Lordships ought to draw, when they had the proof of two individuals sleeping under the same tent for five weeks together, and of familiarities subsequently taking place between them, especially if, in the language of the books, there had been the *trampus* and the *locus* for the *occultus* and the *complexus*, was, that the act of adultery had been committed by them.—Had it not, then, been committed in this case?—He thought it had: for, in cases of adultery, it was not so much whether the adulterous act was itself seen, as whether there were sufficient circumstances to lead a plain man to infer it. Hownam, indeed, said that the tent was not closed; but if their Lordships looked to the evidence of Gargiolo, they would find him swearing that he had closed the tent by the direction of Schiavini. He asked, then, whether the evidence of Paturzo or Gargiolo ought to be blown entirely away, on account of the remuneration which they had received, when it might have been invalidated or destroyed by the contradiction of other witnesses, and when those witnesses had not been called? Gargiolo swore distinctly that Schiavini gave such orders. Did Schiavini give them or not? If he did, he confirmed the evidence of that witness. But it was said that there was a necessity for Bergami's being under the tent at night with her Royal Highness; there was not, however, in the evidence, a single syllable in proof of such necessity. Still, allowing that necessity to exist, what was the reason of shutting up the tent for an hour, or half an hour, as was proved to have been repeatedly done, in the day-time, during calm weather, with a smooth sea, and a breeze so light that the vessel could scarcely move with the tide? With respect to the occurrences on board the *polacre*, he could not help calling the attention of their Lordships to the important fact, that, if false, a number of persons could have been called to contradict them. He did not, indeed, forget that Mr. Hownam had said that there was communication between the awning and below, by means of the hatchway, and that such hatchway had been always open; but was that so? Still, whether it was open or shut, what was the reason that all the persons on board had their mouths shut? Their nerves might be weak, or their memories defective; but their Lordships could not act upon such circumstances, and therefore must dismiss them entirely from their minds. It was not by arguments derived from considerations that this proof could be got rid of; because, when the fact of adultery was not seen, it was only by a combination of circumstances that it could be proved. Their Lordships would next accompany him in the review of what occurred at Aum. Allowing

for all the labour which her Royal Highness was said to have endured upon that journey—allowing for the state of insubordination to which that labour was said to have reduced her—what, he asked, could induce her, if she had been strictly attached to character, to repose in a tent along with Bergami; that tent being enclosed within another, and Carlo and Theodore being placed as guards in the interval between them? What reason, he would repeat the question, was there for Bergami sleeping inside of the tent at Aum? She was surely sufficiently guarded without him; there was no squall of the sea there to incommode her, nor any heaving of the ship; and therefore, the occurrence at Aum of the same event which had before taken place on board of the *polacre*—was a circumstance of such weight, that their Lordships could not overlook it in coming to an opinion. The case, however, did not rest here; if their Lordships would look to the contiguity of her Royal Highness's sleeping apartment to that of Bergami, they would find it to have commenced at Naples, and to have continued till their return from the long voyage. What could it mean? Let their Lordships annex what meaning they pleased to it, still he must ask why were not the individuals who could have explained it called before them? Why, had not the Countess of Oldi been called? Why, indeed, had not others, whose names would immediately suggest themselves to their Lordships' minds? Add to this extraordinary circumstance the still more extraordinary circumstance of the rapid rise and advancement of Bergami. There was a wide distinction between the case of Bergami and to that of a person promoted to rank and honour after a long life of exertion in the army or the navy, the bar, or in the church. It was, thank God, one of the greatest blessings of our glorious constitution, that in this country there was nothing to prevent any individual from rising from the lowest situation in life to the highest.—But it was very different to look at a man slowly working his way to distinction, and at the rapid promotion of Bergami, who, by the bye, had not only promoted himself, but had also been the cause of the rest of his family being promoted. Let their Lordships examine the evidence of Keppel Craven, of Gell, and of Stuard. Stuard, who gave his testimony in such a manner as did him infinite credit, said that he understood Bergami to have been engaged to go as far as Naples as a courier, but that he did not know of any promise or intention to promote him. Craven said, that on his being engaged as a courier, a hope was expressed that he would be promoted; and Gell added that a promise was made that he should be gradually advanced. Let their Lordships look at what occurred within twelve months

of his entering her Royal Highness's service, and then let them ask themselves, whether they ever knew of an individual being exalted to such rank in so short a time, and of so many of his relations being introduced into the same family? The evidence showed that 10 or 12 of his relations were in her Royal Highness's service; indeed he might say that all of them were, with one exception, and that exception his wife. He left their Lordships to draw their own inferences from such a statement. Besides this, their Lordships would find eight or nine witnesses on whose character there was not the slightest impeachment, and to whose testimony no contradiction whatever had been offered. They spoke of familiarities, which might indeed exist without adultery but which, when time and place and opportunity were given for the commission of it, rendered it almost impossible not to infer that it had been committed. As to the transaction stated to have occurred at Anm, and which they declared themselves to have witnessed, why had not Bergami been called to contradict it? It had been said that he could not have deposed, but that was untrue: for, in a case which had been alluded to, it was proved that Major Hooke, the alleged adulterer, had deposed to his innocence. Within his own knowledge, too, adulterers had come to the bar to depose, to their own adultery; and, therefore, he would ask, what were they to infer from the absence of a witness on whom it was imposed more transcendently than upon any other, by the obligations which he had received and the favours which he had experienced, to come before their Lordships, and to depose to the innocence of his royal mistress no less than to his own? There were many other points on which he had made no observations, because, if the leading features of the case, which he had just pointed out to their Lordships, did not convince them of the necessity of now proceeding to the second reading of the bill, they certainly ought not to pass it. He had said nothing of the Sinigaglia case, because, though he could not reconcile the testimony of Sacchi with that of Carlo Forti and Vassalli, he could not consider it to be entirely true, and therefore he dismissed it altogether from his consideration. So, too, with the case at Trieste: for, when he looked to an individual, and saw him not only speaking of her Majesty's residence for six days, but also distinguishing the transactions which occurred on each of them, when it afterwards turned out that her Majesty never stayed there more than a day and a half, he felt it impossible to come to any conclusion upon his testimony. Their Lordships had also had Barbara Kress before them, whose evidence, if they were to form any judgment of it from the manner in which she gave it, was enti-

led to the greatest credit. She had spoken positively, and without contradiction, to facts which occurred on the second day of her Majesty's arrival at Carlsruhe—to facts, too, which were capable of being fully contradicted. There was not, however, the slightest contradiction offered to her testimony, unless their Lordships looked to the evidence which Vassalli had given at the close of the case. And it was rather curious that not one word had he said of her Majesty's change of dress until he had been questioned about it: and then he endeavoured to fill up the time with an account of her Majesty's conversation in the saloon. Vassalli's evidence was, however liable to the same observation which he applied to that of another witness, and, when considered, ought, not to be regarded without a reference to his exact and precise recollection of what occurred at Carlsruhe, and his total and absolute want of memory as to occurrences which happened elsewhere. From what she had deposed with regard to the cloak, and other transactions at Carlsruhe, it was quite evident that something which was not right had occurred there.—Taking, then, into consideration, the facts to which all the witnesses had deposed, adverting to the rapid promotion of Bergami and his family, and to all of them being brought about her Majesty's person, except his wife, and recollecting too what had taken place at Anm, in the polacre, and elsewhere, he felt that he should not be performing his duty unless he expressed his belief that the adulterous intercourse between Bergami and her Majesty was fully and distinctly proved. The positive act of adultery had not, and indeed could not, be seen; but there were facts proved from which a plain man, applying his mind to the principles of conduct which govern human life, could not but infer the commission of it. He, therefore, submitted to their Lordships that the preamble of the bill was fully made out. "One word more," continued his Lordship, "as to what is passing out of doors, and then I have done. I take no notice of it, because I am supposed constitutionally not to be acquainted with it. But this I will say, let what may or will happen, that I shall here perform my duty. But your Lordships have heard from the bar—what I was indeed sorry to hear from such a quarter, and what I never heard from it before—your Lordships, I say, have heard an intimation, that, if you pass judgment against the Queen, you will most likely never have the power to pass another judgment. (*Hear, hear.*) You have heard something like a threat held out to you. (*Hear, hear.*) I declare, that such a mode of addressing a judge was never before conceived to be consistent with the duty of an advocate: but whether an advocate be right in using such language or not, you will allow me to observe, my Lords, that it ought to have no

effect upon you. (Cheers) You stand here as the great and acknowledged protectors of the lives, the liberties, the honours, and the characters of your fellow-subjects. That trust ought not to be imposed upon you for a minute, if you can be actuated by any improper bias or feeling. For myself, if I had not a minute longer to live, I would say to your Lordships—"Be just, and fear not." (Cheers) I know the people of this country. If you do your duty to them as you ought, whilst you preserve their liberties and the constitution, which has been handed down to you by your ancestors, the time is not far distant when they will do their duty to you—when they will acknowledge that it is the duty of those on whom a judicial task is imposed to meet reproach, and not to court popularity. You will do your duty, and leave the rest to the wisdom and justice of God, who guides the feelings and sentiments of mankind, and directs the end and tendency of all human affairs. Having thus discharged my own individual duty, I leave it to your Lordships to decide what is to be the fate of the bill now upon your Lordships' table." (cheers.)

LORD ERSKINE, after a pause of a few moments, arose to address their Lordships: but though he evidently exerted himself more than usual, we were not able to hear his Lordship distinctly. This may partly be attributed to the enfeebled tones of his Lordship's voice, but chiefly to the inconvenient situation which the Reporters occupy, the space lately filled by the counsel being now crowded by strangers, who form a dense mass between them and their Lordships, and thus intercept both view and sound. As far as we could hear his Lordship, he commenced his speech by expressing his concurrence with the Noble and Learned Lord on the woolsack, who had said that their Lordships ought to come to the discussion of the great and important question, which then occupied public attention with the utmost temper and impartiality. His Noble and Learned Friend had not, however, exhibited the best specimen of the impartiality which he had recommended; for, with the exception of the witness at Trieste, he had believed all that had been sworn by the witnesses on the part of the prosecution, and had carefully kept out sight all that had been deposed by the witnesses on the part of the defence, except where it related to the rapid rise and promotion of Bergami. His Noble and Learned Friend had likewise implored them not to allow themselves to be influenced by any extraneous causes, but to despise, as unworthy of notice, the clamour and opposition of the people. On that point he could not agree with his Noble and Learned Friend; for the question which they were called to decide was not a judicial but a legislative one. If it were a judicial

question merely, he would say that their Lordships ought to be prepared to do justice at all hazards: they ought to adopt, as the rule of their conduct, *fiat justitia, ruat cælum*.—But though, in courts of justice, the popularity of the question, the opinions of the people, their notions of the justice or injustice of particular actions, ought to be carefully disregarded, still, in a court of the very mixed nature which he was then addressing, where they were assembled partly to judge and partly to legislate, it was their duty to consider the effect which their judgment was likely to produce on the nation of which they formed so distinguished a part. His Lordship, after some other remarks which we lost, proceeded to say that he did not know how to discharge his duty better to their Lordships than by laying his breast open to them, and declaring to them all opinions which he had entertained during the various stages of the pending investigation. And here he must observe that, in one point, and in one point only, had he been wrong. Immediately after the death of his late Majesty, and before her Royal Highness was apprised of the commencement of this business, he had been of opinion that her name had been improperly struck out of the Liturgy, and herself unjustly deprived of the prayers of the church by the agency of his Majesty's ministers. His Noble and Learned Friend, however, seemed to have forgot that incident, or else he could never have said what he had said upon the present occasion—that nobody ought to be considered guilty before they were proved so—that the scales of justice should be held even—and that no opinion ought to be expressed against the accused previously to the time of trial. He had no difficulty in stating, that when he heard of that act of injustice having been committed—whether ministers were justified by the law of the land in committing it, he would not then pretend to determine—he conceived that they must have a case against her Majesty so strong that nothing could answer it. He thought that they must have entered into an inquiry of the most extensive nature; and that from having examined, not unknown and needy individuals, not such witnesses as they had all seen cast overboard by cross-examination, but persons of fortune, rank, and respectability, they had collected such proof as rendered her guilt evident, beyond the possibility of a doubt. In such expectation he had come down to their Lordships' house, where he found certain papers laid upon the table, and sealed up, for their information; and at the same time he was told that similar papers had been sent to the House of Commons. When it was moved that those papers should be referred to a committee, a Noble Friend behind him, with whom he perfectly agreed, told their Lordships that by agreeing to such a motion they

would disqualify themselves as judges. To that it was answered, by the Noble Earl opposite, that it was not so; for adultery, when committed beyond the seas with a foreigner by a Queen of England, did not amount to high treason. The Noble Earl, in corroboration of his (Earl of Liverpool's) opinion, had called to his (Lord Erskine's) recollection a bill which he (Lord Erskine) had himself introduced into parliament to make adultery a crime, and had used many other arguments with such ingenuity that he began to doubt whether his own opinion was not erroneously grounded. From subsequent research, however, he was convinced it was correct, and that an impeachment would lie. He had, in consequence, entered a protest on their Lordship's journals, declaring that the House of Commons had power to impeach for this offence; and stating that their Lordships knew that they had such power, but that they were not inclined to exercise it. He wished now to ask their Lordships whether they had any fit foundation for a Bill of Pains and Penalties, when they know that the House of Commons entertained a different opinion from themselves of the nature of the charges which were to support it? The Bill, as it at present stood, was a measure totally unprecedented, and from the bottom of his heart he trusted that they would never have cause to repent of the precedent which they had established; for how did the case stand? Certain papers were sent down to the House of Commons; and that House, with the papers before them, came to a resolution; and those members of it who represented the government there, agreed in the resolution, that the question which they were then debating, the inquiry which they had just concluded, was one that was derogatory from the dignity of the crown, and injurious to the best interests of the people and that resolution was urged on the grounds that contamination of the public morals would certainly ensue from it. Were, then, the people, whose representatives had concurred in such a declaration as he had just described, to be condemned and despised, because they surrounded their Lordships, complaining of the injustice which had been done to their Queen, and the injury which had been done to their morals? When this resolution had been passed the House immediately resolved to address her Majesty with all the respect due to her elevated station; a deputation was appointed to carry up that address, and an individual of no slight weight and respectability in the country formed a part of it. Her Majesty refused to accept the address of that House, on grounds which could not be questioned. She stated, in her reply, that an entire reconciliation of the differences between herself and his Majesty, effected by the authority of parliament, on principles consistent with the honour and dignity of both par-

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ties, was still the wish dearest to her heart: and she further added, that, as an accused and injured Queen, she owed it to the King, herself, and to all her fellow-subjects, not to consent to the sacrifice of any essential privilege. Now he asserted that by that answer her Majesty showed her readiness to accept any terms which could have been offered her that did not compromise her innocence: it was therefore the duty of his Majesty's ministers to have restored her name to the Liturgy, from which they had so unwarrantably erased it, if they wished for the success of that resolution to which they had voluntarily become parties; it was likewise their duty to have done so, if they were of opinion that no prejudice should be suffered to go out against her Majesty until she was proved guilty by a fair, open, and impartial trial. But, instead of acting in such a manner, they had perilously persisted with their Bill of Pains and Penalties, though the other House had clearly shown its hostility to any investigation: and the question for their Lordships' deliberation then was, whether they would read it a second time, only to read it a third time, and send it down to the House of Commons to pass it? Could they be weak enough to expect that the House of Commons—which had declared that it would not inquire much less impeach—would calmly submit to their Lordships sending down to them a bill to dishonour them—a bill which called upon them to rescind a vote to which they had formerly come almost unanimously? He was afraid of the consequence of the two houses being at issue on the question. The House of Commons were the representatives of the people notwithstanding it had been asserted to be otherwise; and after they had declared that there was no ground for impeachment or inquiry—after they had given the Queen all the advantage which could be derived from their acknowledgment of her innocence—They would not reconsider what they had asserted they would never consider at all. He apprehended that, even if the House of Commons submitted to do so, it would be productive of events highly injurious to the constitution. His Lordship then proceeded to argue that, if the preamble of the bill of Pains and Penalties were proved, an impeachment would have lain against her Majesty. Could it be said that adultery committed by the King's wife, beyond the seas, with a foreigner, was not a high crime and misdemeanour? If it was not so, what was it? And when the King, as a husband, had no claim to come into court, could their Lordships say, that adultery openly and publicly committed—that a licentious intercourse carried on in the face of day, to the great scandal and dishonour of the nation—was not an event over which the nation could claim jurisdiction? In the early part of these

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proceedings he had contended that no ground for a bill of Pains and Penalties existed, unless it could be shown that the constitutional remedy of impeachment could not be resorted to: that, he maintained, was not shown: and he denied that if every thing stated in the preamble of the bill were proved, if all the evidence adduced were true, there would even then be a ground for a bill of Pains and Penalties as long as impeachment could be resorted to. He was now at nearly the close of a long life, and perhaps he might say that some periods of it were marked by attempts, not always unsuccessful, to secure to the people of this country some of the blessings of the constitution. If, however, these exertions were struck out, there was nothing in the course which could distinguish him from any humble advocate. He had often in courts of justice exerted whatever little power he possessed against principles which were detrimental to the liberty of the subject, and he thought that at the present moment he should be guilty of a gross neglect of his conscientious duty, if he did not oppose all the strength that yet remained to a principle so foreign from the spirit of our constitution as the Bill of Pains and Penalties now before their Lordships. [Here the Noble Lord's voice felt so much, that several minutes elapsed before he was again audible below the bar.] It had been stated, his Lordship continued, that it was upon a long adulterous intercourse their Lordships were to decide.—This he denied, and he made the denial in the face of all England. The preamble of the Bill stated “that her Royal Highness, while at Milan, in Italy, had engaged in her service an individual, in a menial capacity; and that, while in that situation, a most unbecoming and degrading intimacy soon commenced between her Royal Highness and that individual; that he was not only advanced to a high situation in her Royal Highness's household, but that he was received by her Royal Highness with great and extraordinary marks of favour and distinction: and that she, unmindful of her exalted rank and station, and wholly regardless of her own honour and character, had conducted herself towards him, both in public and private, in the various places and countries which she visited, with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful, and adulterous intercourse with the said Bergami, by which conduct great scandal and dishonour had been brought upon his Majesty and this kingdom.” This intercourse was further stated to have been carried on for a series of years. But now it seemed that this long intercourse—all those indecent and disgusting familiarities—were put out of the question, and the whole confined to what occurred on the deck of

the polacre (*heer, heer*): so that all those licentious, scandalous, and disgraceful acts attributed to her Majesty, were all to be comprised in her having slept under the same tent with her chamberlain; and this was proved by two witnesses, who were, in fact, no witnesses at all, which his Noble and Learned Friend, the Lord Chancellor would find, if he went back to the evidence which bore upon this part. Even if their Lordships believed the account of sleeping under the tent, where did that prove the alleged adulterous intercourse? What was the impression with respect to this point by those who spoke of it? The fact had not so impressed itself even on the mind of Gargiulo—that witness who came here, half by compulsion, and partly to get a reward which he never merited—the witness who came to receive 6,000 dollars—had the impression of even this witness borne out the facts? He would not say that what one man or another thought would be evidence, for men might think differently on such points. But though the question on this case was overruled, the answer came out from a witness (Hownam, we believe), that the sleeping in the tent, under the circumstances stated, did not convey to him any impression of improper conduct. He now came to another part of this case. (Here his Lordship adverted to the examinations of witnesses before they were brought to this country, and to the abstraction of Rastelli; but in so indistinct a tone that only the general tenour of his remarks could be collected below the bar.) We understood him to say that he did not impute any blame to particular individuals, for to examine witnesses beforehand was a constant practice: he did not mean to condemn the conduct of Mr. Cooke; but if it was an angel from heaven who had been engaged in this business he would still ask, had it been properly conducted? He contended that the absence of Rastelli, at the moment when his evidence was of so much importance, was a circumstance which ought to have been closely examined, and their Lordships should have had the fullest inquiry into it before they went further. It was remarkable, that notwithstanding the various acts charged upon her Majesty, and the number of witnesses called in support of them, his Noble and Learned Friend (the Lord Chancellor) should have confined himself to one. Good God! if he (Lord Erskine) were engaged in a case, in which all the principal witnesses had failed, would he be justified in continuing to urge it? What ground, he would ask, was there for giving up the transactions at Naples? It was admitted, that before her Royal Highness went to Naples her conduct was unimpeachable. There her first criminality was said to have taken place. How was this described by her

Royal Highness's own attendants? The first and second night she was attended by Sir William Gell and Mr. K. Craven. Both of those gentlemen came home with her the second night at a late hour, after having been in waiting for the whole evening. Yet with such testimony, which could not be doubted, on their Lordships' minutes, what had the woman De Mont sworn—that woman, who was contradicted by her own evidence, as he should afterwards show? She swore that her Royal Highness came home early, that she appeared agitated, and dismissed her (De Mont) sooner than her usual time. She also swore that on the next morning the small bed remained unoccupied, and that the large one, in which she assumed her Royal Highness slept, was quite disturbed, as if slept on by two persons. Now, if this account were to be believed, there was clear evidence of an act of adultery. According to the rules of law, if a strange man is seen going to the bed of a married woman, or if a married woman went to the bed of a man not her husband, under circumstances where fair reason could not justify the visit, that would be construed properly to be an act of adultery. How then, with such a strong fact before him, could his Noble and Learned Friend (the Lord-Chancellor) have abandoned this part of the case? How could he have taken no notice of it, though this woman was one of those on whom the whole case was said to depend? (*Cries of "No, no," from some peers.*) Their Lordships, however, had this woman's testimony in support of the adulterous intercourse before them—this chambermaid, who had been the unwilling witness to so many abominations, to such disgusting and disgraceful scenes, to all the filthy circumstances which were said to have occurred on board the polacre—and with all this, strong as it must have been in her memory, if it were true, what was the account of her Royal Highness which she gave in her letter to her sister, whom she was most anxious still to continue in her Royal Highness's service? She says, in part of that letter, "How often in a numerous circle, whilst with all the enthusiasm which animated me, I enumerated her great qualities, her rare talents, her mildness, her patience, her charity; in short, all the perfections which she possesses in so eminent a degree; how often, I say, have I not seen my hearers affected, and heard them exclaim, 'How unjust is the world, to cause so much uneasiness to one who deserves it so little, and who is so worthy of being happy!'" In another part of her letter she advises her sister to imitate her (De Mont's) example, and not to marry, but to remain in the service of her Royal Highness as long as she should please to keep her. This was the account she gave of the woman whom, if her oath was to be believed, (he must at the time have known to

have abandoned all the decencies of her sex; and yet, with this knowledge, she advised her young sister to remain in her Royal Highness's service. Now he asked their Lordships, if this woman had given her evidence in any of the courts below, and that such a document was afterwards produced in her writing, would her testimony be relied upon for a moment? But her account was not only inconsistent with itself and with her former declarations, but she was directly contradicted by others. She was directly contradicted by the witness Martini as to the declarations respecting her Royal Highness. She was recalled, and asked whether she had ever made any declarations of her belief that her Royal Highness was surrounded by spies, which she denied; but Martini proved most satisfactorily that she had made such a declaration to her in the presence of others. He (Lord Erskine) should be glad to learn what reliance a court of justice would place on the testimony of such a witness, if not corroborated by other evidence, and that of an unimpeachable character. If the witness had only contradicted herself on immaterial points, it might not affect her general credit; if her contradictions were only on collateral matters, she might be believed in the main story. This was the case with Lieut. Flynn; he took notes of what occurred on a voyage. Those were first written by another, afterwards copied by himself, and then written out by a third party. It was upon these that his confusion arose, and that confusion was increased by his indisposition. But this affected no material part of his story. Was this the case with the witness De Mont? Was it only on trifling points that she was contradicted? Their Lordships would recollect that she was contradicted by herself and others on matters on which, if she wished to tell the truth, she could not be mistaken. Her object was to prove her Royal mistress guilty of the adulterous intercourse. To this she swore, after her having made such declarations to the contrary as he had pointed out in her letter. Here, then, she was directly contradicted out of her own mouth, and their Lordships knew how great a difference there was between a witness contradicting himself and being contradicted by others. He would now pass from this witness, whom he looked upon as dead and buried in her own contradiction, and proceed to another part of the case. Great reliance had been placed on the elevation of Bergami. He would admit (as we understood his Lordship) that if the indecent familiarities which were alleged, but which he did not think were satisfactorily proved, had taken place, that elevation would become a just ground of suspicion; but, even admitting them for a moment, did they prove the guilt with which her Majesty was charged? He could not look upon the

elevation of Bergami in the light in which his Noble and Learned Friend had viewed it. Those marks of distinction conferred on Bergami were certainly marks of great favour, but were they in themselves proofs of her Majesty's guilt? Her Majesty, it was said, had gone so far as to institute the order of St. Caroline (whether with or without authority he would not stop to inquire), and to confer the first rank in it on Bergami. This was said to have occurred on her Royal Highness's visiting the Temple of the Resurrection—and certainly, on looking to that circumstance, he took the fact not as proof of guilt, but as moral evidence of the contrary. They had just then visited the spot where the Saviour of the world had bled for mankind; and in commemoration of that visit her Royal Highness instituted the order with which she invested her principal attendants. Taking into consideration the time, the place, and the cause of this transaction, he thought that, instead of its affording any evidence of guilty intercourse, it was, in his mind, a strong proof of the existence of directly a contrary feeling in the mind of her Royal Highness. He now came to the evidence as to what occurred on board the polacre—to the sleeping under the awning or tent;—and here he would observe, that if the evidence went to show any instances of her Royal Highness passing from her room to the bed of Bergami, it would, if on creditable testimony and unexplained, be presumption of guilt; but the case was quite different on board the polacre, and, of course, the case could not follow. When first the parties went on board, there was an arrangement of the beds, which was on all hands, considered unobjectionable; afterwards that was partially changed in consequence of a surgeon coming on board. The beds were at this time below.—Now he would ask their Lordships, if an adulterous intercourse was sought for by her Royal Highness, would she not have continued the beds below, where intercourse of that description would be less open to her observation? Instead of this, what took place? Her Royal Highness went on deck, where her actions were not only exposed to the observations of her attendants, but also to those of the whole of the ship's crew.—The tent opened on the deck; and besides, there was an opening from below, to which the suite had access. But it was said that her Royal Highness was attended in this tent by a male attendant. Good God! was that circumstance to be taken as proof of adulterous intercourse? What was to become of society if a woman having a male attendant was to be taken as a proof of her guilt? Was it not a matter of every-day occurrence that women were attended in their rooms by men, and also men by women: but who ever inferred guilt from that circumstance? Taking then,

the whole of what occurred on board the polacre—and it seemed that upon the tent-scene the whole case was rested—he contended that there was nothing in it which could support the statement of the preamble, that her Majesty's conduct was "scandalous, disgraceful, and vicious." If the whole of her conduct were taken together, it did not amount to a proof of the preamble; but all her Majesty's acts, whether of "private or public" character, had been abandoned by his Noble and Learned Friend, except those which took place in the polacre. (The Lord-Chancellor here, as we understood, signified his dissent.) The Noble Lord next adverted to the evidence of Majochi, which he said was positively contradicted in most material parts, as he would show independently of his contradictions of himself. He was contradicted with respect to the ball and supper. After he described the Queen as having passed twice through his room towards that of Bergami, he denied at first there was any other passage by which she might have gone. Here his Lordship read some of the questions put to Majochi.—He was then proceeding to notice the contradiction given to this account, and to contrast Majochi's evidence with that given by Dr. Holland, when his voice suddenly ceased. The pause was not particularly noticed at first, as it appeared as if his Lordship were looking over the Minutes placed on the table before him; but after some time had elapsed, without resuming his speech, some of the Peers became alarmed, and rose from their seats to proceed to his Lordship. The anxiety of the whole House was now roused, as the Noble Lord fell forward on the table in a senseless state. There were cries of "Open the windows," "Some water." The Lord-Chancellor and the Earl of Liverpool evinced the greatest concern, and proceeded immediately to Lord Erskine's assistance. They, with the assistance of Earls Grey and Carnarvon, Lord Holland and Mr. Baron Garrow, raised his Lordship; but his speech and colour were gone. They then became seriously alarmed, and instantly proceeded to convey him out of the house. The attack was so severe that they were obliged literally to carry his Lordship out of the house, and into an adjoining room, where medical aid was immediately procured. It was at first supposed that his Lordship's indisposition would be but temporary, and, in the expectation that he would be able to resume his speech, the House, on the motion of Lord Lauderdale, adjourned for a quarter of an hour. (It was now a quarter past 12 o'clock.) After the lapse of nearly half an hour, Lord Erskine's indisposition being so severe as to prevent his return, the House resumed.

The LORD-CHANCELLOR said, that he had in common with their Lordships to re-

gret the absence of his Noble and Learned Friend whose indisposition had compelled him to quit his seat. But he could not permit this debate to go further without observing, that his Noble and Learned Friend mistook what he (the Lord Chancellor) meant, when he said that he had overlooked many of the points in the case. What he meant to say was merely this—that in the points and cases upon which he had remarked, he saw enough for his own judgment; as to the rest, he had left them unreasoned upon, and refrained from pronouncing any opinion with reference to them.

The EARL of LAUDERDALE rose to state the grounds upon which his decision was formed on this great and protracted question. He assured their Lordships that he felt almost completely overawed by the nature of the momentous subject before the House. He knew also, that in rising so soon after his Noble and Learned Friend (Lord Erskine) he had to encounter many disadvantages. Upon any legal question, he should, indeed, not venture to put any opinion of his own in opposition to that of his Learned Friend; his Noble Friend had led a long life in a manner known to their Lordships, to qualify him for filling the highest offices to which his profession led, with honour to himself and advantage to his country. (*Hear*) that the present question was not one involving subtle points of legal controversy; it was, on the contrary, one which turned upon the points of evidence, the knowledge of which was open to every man—points on which it was the uniform custom to call on every man to judge under the direction of the judges of the land. He did not mean to follow his Noble and Learned Friend into the branch of the subject with which he set out, or, indeed, to follow him through his speech, which made use of the whole of the proceedings in this case as a means of attack upon his Majesty's Ministers. (*Hear*.) He (the Earl of Lauderdale) had, he thought, in his public life, shown himself as ready as any man to concur in an attack upon these Ministers, but he could never be brought to look at this as a party measure. (*Hear, hear*) On the contrary, he would endeavour to examine it with calmness—he hoped with candour—and with the utmost disposition to do justice impartially in the case. He remembered many years ago he found himself, during the administration of Mr. Pitt, in a committee, in which he was the only person who held a particular opinion; he recollected that when Mr. Pitt afterwards wished to know the nature of the proposition he meant to make, that he answered, it was a needless ceremony to call upon him for that purpose, as he (Mr. Pitt) might receive the information through another quarter. In point of fact, it went to make a charge against the administration of Mr. Pitt, which might

have been made the subject of public inquiry. He had on no occasion shrunk from making a party against the administration to which his Noble Friends were generally opposed. But the present, he repeated, was no party question, it was one to which he came with no party feeling, but to discharge a public and painful duty. (*Hear, hear*.) He had heard nothing from either his Noble Friend (Lord Erskine), or the Noble Lord on the woolsack, of any difference between them respecting the rules of evidence. It was observed, that in this case there was great perplexity in the evidence of facts, and that in a case of adultery the proof should be plain and clear. Was it expected that they should have evidence of the actual perpetration of the fact itself? Such an expectation was not held out by the law; on the contrary, the rule always acted upon, and clearly laid down in the case of *Loveday v. Loveday*, so often quoted throughout these proceedings—in that case Sir W. Scott said, "it is not necessary to prove the direct fact of adultery; for if that were the case, there would be no sufficient protection for private life. The offence cannot be proved by artificial inference, but by general acts and circumstances, which were of themselves of so suspicious and positive a character, that adultery had been committed, that no just an honest man could doubt. Now, if it was to be inferred from general facts and circumstances, how did the present case stand? To his mind, then, one of the leading circumstances from which an inference must be drawn, must be collected from the relative situation of the parties and their previous conduct. Taking therefore this mode of examining the case, he thought that, in the previous conduct and relative situation of the parties, there was stronger ground to rise an inference in this case than in any other which he ever remembered. The line that he meant to pursue in stating his opinion was this: he meant first to lay out of his consideration the whole mass of evidence for the prosecution, and he wished his inferences altogether to be drawn from the evidence adduced on the part of the defence, and from the latter alone he thought a case was made out beyond the possibility of doubt in the mind of any rational and impartial man who fully attended to the evidence of the defendant's witnesses; out of that defence would he get the whole history, without extracting from the other and more decisive evidence for the prosecution. Now, then, respecting the previous station of Bergami, much had been said of his family, and that his previous rank was that of a gentleman: whether it was so or not, he would entirely leave out of the case. All he found of him in the evidence of the defendant's witnesses, was, that in the year 1805 he was a quartermaster in the French service, and in 1809



a courier. He begged the house, at the outset, particularly to mark his extracts from the evidence, (always bearing in mind that he now meant the evidence for the defendant;) and if he erred in repeating it, to correct him as he went; he should take it as a favour to be so corrected by any Noble Lord if he fell into any error. According to the evidence of Mr. Keppel Craven, Sir Wm Gell, and Mr. Sicard, Bergami was taken into the service of the Princess of Wales in the year 1814. According to Sir Wm. Gell he was engaged on the recommendation of the Marquis Gizilligheri, who begged that, if he were found a faithful servant, he might be promoted. Without any disrespect to Sir W. Gell, he must, however prefer on the subject of the hiring of Bergami, taking the testimony of Sicard. According to Sicard, who hired him, the utmost extent of promise made to the marquis was, that Bergami, who was hired as a courier for a job, should afterwards be kept as a domestic out of livery. Bergami was merely hired as a courier to Naples. On the journey thither there appeared no alteration of apartments different from the ordinary arrangements. Wm. Austin slept in the Princess's apartments; but when they came to Naples, then the new arrangement was for the first time ordered; the house had indeed heard that, in the tour in Germany, her Royal Highness had been recommended to order a separate apartment for Wm. Austin. Soon after the arrival of the Princess at Naples an alteration took place in the sleeping apartments of her Royal Highness and her courier, which could not have been better arranged, if it were intended to perpetrate the crime designated in the preamble of this Bill. According to the arrangement of the rooms at Naples, when one door was shut, the communication between the one bedroom and the other was open to the parties, without the possibility of their intercourse being interrupted. The new fact to which he would allude, was that spoken of by Mr. Craven, the chamberlain of the Princess, who stated, that in consequence of seeing Bergami walking after her Royal Highness on the terrace, he admonished the Princess to be circumspect in her conduct. What! admonish the Princess for walking upon her terrace, followed by her servant! He had often heard of a lady being admonished for walking out with her servant; but this was the first time he had heard of an admonition for her being attended by one, following her in the place he ought to fill. Such a thing as an admonition for this was never before heard of. He desired their Lordships to consider this admonition from a Princess's chamberlain to his mistress, for her being followed at a respectful distance by her ser-

vant. What ought to have been the natural consequence of such an admonition? Not that Bergami should be dismissed, but that the chamberlain should, who dared to admonish his mistress upon so groundless a pretence. (*hear.*) It appeared in the course of the evidence, that Bergami was at this time, at Naples, the only servant who was permitted to attend her Royal Highness when she was confined to dinner in her bed-room; he was the person taken immediately from his station as courier to the most confidential and friendly intercourse with the Princess. He was received in that footing at Rome and Civita Vecchia, where Lady Charlotte Lindsay would not swear he did not walk arm in arm with his Royal mistress. Her Ladyship said she did not recollect such an instance of familiarity; but she would not positively swear that it never occurred. He could not help remarking on the change that about this period took place in the attendance upon the Princess of Wales. She was without her English attendants, and Mr. Sicard was dispatched to England. On her Royal Highness's arrival at Genoa, what steps did she take to fill up her suite? She immediately took into her service a number of persons of the family of Bergami. Upon this circumstance he had two remarks to make. Was there any thing said at the time of the superior services of Bergami; had he been found so useful in the discharge of his duty, that for the purpose of retaining his services, it became necessary to engage other members of his family? No such reason appeared. The next remark applied to the manner in which the relatives of Bergami had entered her Royal Highness's service. There was no notice, no previous arrangement, known to the household. Lieutenant Hownam knew nothing of the matter, nor did Dr. Holland. How, then, did these persons come to Genoa? By whom were they sent for? What secret ought there to have been in their arrival if there were not some object for concealment in view? That there was a secret was clear, and that it was kept between the Princess and Bergami. Why did this occur, and more particularly respecting the female persons with whom her Royal Highness was to fill up her household? When Dr. Holland saw the Countess of Oldi at Venice, he left her in the thorough persuasion that she was an Italian countess of rank, who had been introduced to the Princess as her dame d'honneur: such secrets between a gentleman and lady in their own establishment were capable of explanation; but between a courier and a Princess, the fact of their existence could only carry a plain and reasonable man to one conclusion. That this countess, who was to sleep in an apartment between the parties, should be considered as a lady of rank in the house, and unconnected with either of the parties, he could only understand in one

way, and in that way they struck his mind as being of the strongest nature, and prepared his mind most forcibly for the inference which he should feel it his uncompromising duty to draw from the other facts of the case. No sooner were the English personages of rank removed from the Princess's retinue, than their places of attendance upon her Royal Highness became filled by the family of Bergami. He could show that 13 in number of that family were engaged by the Princess, and that among them she enjoyed her amusements, and sometimes condescended to play at blindman's-buff. So that this courier, merely taken in at first for a job-journey, had the power within four or five months after to secure engagements in the household for no less than 13 of his family. His sister was engaged as the Princess's lady of honour at Milan, without any of the household knowing any thing of the existence of the relationship between Bergami and the lady. A Noble Lord (the Earl of Guildford) and his sister sat down at table with the lady, but knew nothing of her affinity to Bergami, who by this time always dined at the same table with the Princess. After the residence at the Villa d'Este there was no proof that Bergami and the Princess did not regularly dine together at the same table. The Noble Earl then adverted to the mode of life pursued by her Royal Highness with the persons of the Bergami family in her suite, and spoke of her acting with them in theatrical entertainments as a circumstance to show the manner in which they had been so suddenly taken into her favour. In the little space of 8 months they had all these proofs of Bergami's sudden promotion and familiarities; but in the whole of the evidence there was not one circumstance to be found which made out any ground for that rapid elevation and familiarity. The story of Genoa was most imperfectly and unsatisfactorily detailed in the testimony of Lieut. Hownam. Under the view he had taken of this part of the case, what was he (Lord Landerdale) to presume? If any reasonable ground could be assigned for the conduct of her Majesty upon those particulars, were not her Counsel called upon—aye, called upon in a degree which never men were before—to show it to their Lordships? But they had not so done. Her Majesty was proved, on the other hand, to have embarked on board the Leviathan with a full knowledge of the rapid exaltation and increased familiarity of this man. Although he was aware that Capt. Briggs was not an evidence for the defence, yet still he thought that the evidence of the two naval captains was, on the whole, of a suspicious nature. (From the low voice and peculiar intonations of the Noble Earl, throughout the whole of his speech, his observations could be but very imperfectly collected; and,

among many others, we could not catch what fell from him as the reason of this last opinion.) The Noble Earl then adverted to the evidence of Captain Briggs; not for the purpose, he said, of insisting upon the improper familiarities between the Princess and Bergami on board the Leviathan, but of showing that it marked the character and motives of her conduct towards him. On board the Leviathan, where those familiarities had taken place, her Majesty insisted that an alteration should be made, and that the disposition of the apartments should be changed. When her Majesty came on board this ship it was quite clear that Capt. Briggs had communicated to her that Capt. Pechell could not possibly sit down at table with a person who had formerly waited at it in a menial situation. Did he (Lord Landerdale) mean to reflect on Capt. Pechell for having so determined? No; on the contrary, Captain Pechell had thereby acted in a manner honourable to himself and to the character and dignity of his Majesty's service. (*Hear, hear.*) For the four days during which her Majesty continued on board the Clorinde, their Lordships were told, in point of fact, that she kept a separate table, for the purpose of enjoying the society of this man (Bergami), who, in the course of a year, had been advanced from a simple courier to the situation of her chamberlain and principal confidential servant. Would any one contend that her Majesty had not been sufficiently cautioned against the attentions bestowed by her upon this individual? She was admonished by the knowledge that Captain Pechell himself could not sit at the same table with this person, whom she, however had made her companion. Not only had she been admonished by this party, but, perhaps, by many others. His Noble Friends well knew that she had received the most kind and prudent admonition from the late sovereign, her venerable relative, and, as the Learned Counsel had declared, her best friend; and also from Lieutenant Hownam, if their Lordships might believe that individuals's testimony, to which he would presently advert. He did not mean to detain them by going into all the minutiae of the case; but, if it were necessary, he could do so, and prove the inferences he had suggested still more strongly, from a more detailed examination of it. In point of fact, he (Lord Landerdale) did not mean to notice what took place on board the polacre before Jaffa:—There was one fact, however, relative to the polacre upon which he would say three words. What his Noble and Learned Friend had alluded to was not as he had stated it; but the case was this—that the doctor, who was taken on board, did not occupy Bergami's room; but the apartments of Austin, Schiavini, and one or two others, were shifted, by which means the doctor was accommodated.

As to the evidence of Flynn and Hownam, he (Lord Lauderdale) had heard with much surprise a distinction endeavoured to be established between them. One of these appeared on his cross-examination to be, first, an unwilling witness, who was forced afterwards to contradict himself: and this showed what sort of confidence or dependence was to be reposed on his testimony. Lieut. Hownam was a witness who at first would not remember facts: then gradually recollected them, and at last boldly hazarded assertions. There was no other mode of dealing with such a witness but by cross-examination; so as to expose, as much as possible to the court what was the falsehood of his testimony, and to make what was the truth of it appear upon the trial. (The Noble Earl then read an extract from Lieutenant Hownam's evidence, p. 739, being relative to the walking of Bergami and the Princess on the deck of the polacre, together arm in arm.) So that here there was continued shuffling and prevarication about a thing which the witness knew, in the first instance, to be true. He (Lord Lauderdale) would not detain their Lordships further upon this subject, because he must confess that the mode and manner of this testimony operated in his mind entirely to its discredit. He must discredit it, unless what this witness had said was confirmed. Lieutenant Hownam's evidence, therefore, upon one fact, which had been so often before their Lordships could weigh little with him against that of two other witnesses. He must believe that that fact had taken place which had been deposed and sworn to by two other witnesses. The variations in this person's evidence were not upon a mere trifling circumstance; but upon a fact, which, whether it was true or false, evidently affected the credit of his whole testimony—he meant as to what the party had said to the Queen: so afraid was the witness of acknowledging that he had the boldness to say that which he ought to have said. With regard, then, to Lieut. Flynn, his testimony was also of an imperfect and confused description. Their Lordships had been called upon to make their election between the evidences of these two Gentlemen: no easy matter this. For some facts, so far as regarded his own opinion, he (Lord Lauderdale) should prefer, for some facts, the evidence of Lieut. Flynn; for others, that of Lieut. Hownam; and Noble Lords must depend upon their own judgment for the probability or improbability of the facts to be found in either. No less than three different views might be taken of the mode in which this witness (Hownam) attempted to account for her Majesty's conduct, in the course of his testimony: 1st, he did not know of a particular fact; 2d, he attempted to account for it from the necessity of the thing; and 3d, being driven out of that necessity, he at-

tempted to defend it, by saying that he saw no mystery about it. He would read Hownam's evidence from beginning to end on this point (a laugh), in order to show what constituted this necessity in the witness's mind. [He then read an extract from p. 763.] The only cause or necessity of Bergami's sleeping under the tent here assigned was, that Bergami would be the best and most capable of giving assistance. He was asked why Schiavini could not fulfil that office; it was replied, that Schiavini was no sailor; neither was Bergami a sailor; then he must have been better than Schiavini only: now between Bergami and Schiavini he (Lord Lauderdale) could not undertake to decide, with regard to their respective naval talents, or knowledge of seamanship. All that he knew was, that Bergami was 6 feet 2 inches high, and that that was a very inconvenient height for the decks of a polacre. (The Noble Earl then referred their Lordships to pp. 765, 764, and 767 of the same evidence.) From these passages the House would see that this alleged necessity was quite done away with. First of all, there was a crew which was of a suspicious character, and there was but one Englishman, unfortunately, in the crew. Which he was, he (Lord Lauderdale) did not know; all he knew was, that the man had not appeared at the bar. But in p. 767 Lieutenant Hownam, in answer to a question as to whether he apprehended danger from this suspicious crew, admitted that there was no danger. In p. 767 he admitted that there was no suspicion of the crew whatever. In p. 766 the witness said, her Royal Highness thought the vicinity of a male attendant was necessary, and he did not think otherwise: so that the evidence of this gentleman, after going and talking about the necessity of a male attendant for the protection of her Majesty, amounted to this, that her Majesty thought so, and the witness did not think it otherwise. "If," said his Lordship, "there really was no mystery in the case, there never were two such perjured witnesses came into court." They had talked of the necessity of the thing, and in the result of their examination, it appeared that it was a necessity of which Lieutenant Flynn knew nothing. It was in evidence elsewhere, that the Queen and Bergami had been seen in the night of the storm coming out from under this tent together. He desired to know what must be the conclusion to be drawn by their Lordships from this fact so deposed to? Now the Countess of Old, Marietta, Schiavini, Austin, Hieronymus, and Camera, had not been called to contradict it; neither of these six individuals had been called even to do so, though that was naturally to be expected from the Learned Counsel for the Queen. What was the conclusion to which the mind of every honest man must come? The same, he

thought, as his own had arrived at. He said that the absence (so we understood the Noble Lord) of these six witnesses told as much as if the fact were admitted. "But," he continued, "if I was drove to it, I could not consider the fact as otherwise than true, under the circumstances." The Noble Lord went on to show, that his reason for this opinion was, that they had the evidence of five witnesses, whose testimony confirmed what Hownam said; so that, here the House must consider what credit was due to Lieut. Hownam, his evidence being so corroborated. It was confirmed, then, by five witnesses, and they had six other witnesses, who could have deposed to this part of the case, absent. This was a case of that nature and description, that he doubted if ever judges were called upon to decide on one so clear. (*Hear.*) He knew of no case which had ever been tried, no case which had ever been appealed to their Lordships, that was proved, if this was not, if this could not be called one. The Noble and Learned Lord on the woolsack had given up the evidence of Majochi and De Mont; and much surprized he was that that Noble Lord had done so. He had often heard that Noble and Learned Lord, in his (Lord Lauderdale's) bumble apprehension, dealing with witnesses and treating all legal matters in the way which ought to be observed. Now, if evidence was shaken, they ought, even if it was discredited, short of contradiction, to rely upon so much of it, he apprehended, as was not affected, provided it were supported and confirmed by such means as their Lordships might think tended to corroborate it; so much of its great outline, as where the boundaries of truth and falsehood were defined with sufficient precision to enable their Lordships to discriminate. Notwithstanding all that had been said out of doors to throw doubt upon and to impugn the testimony of Majochi, he (Lord Lauderdale) said that he could not think much was done, or but very little was done, to impeach the evidence of this man. (*Laughter.*) Majochi said, that he saw Dr. Holland in the room with Bergami, when the Princess was present, and this Dr. Holland did not deny. In order to produce, however, an unfavourable effect upon the character and credit of this witness, he had been ridiculed in caricatures, and every means had been resorted to, as their Lordships knew, to instil into the minds of the public, as well as it could be done, an opinion that this man was a perjured witness. The Noble Earl proceeded to deprecate the course which had been pursued, by its having been given out that Mr. Hume and Mr. Johnstone were coming forward with certain charges against the character of Majochi. These gentlemen, however, where were they, and who were they? As for the witness, Carrington, he stood in the evidence as

having contradicted upon oath Sir Wm. Gell, but he was sure that the house had manifested no disposition to disbelieve the testimony of Sir Wm. Gell on that account. It seemed, however, as if they were to be told, "Oh, you must believe Carrington, because he has contradicted Majochi." The servant Carrington stated the conversation at Rucanelli took place in the month of July, whereas it was sworn by Majochi, and borne out by others, that that month was passed at the Villa Brandi, and that the conversation was held at another time. The servant Carrington's error was indeed made out by clear and indisputable evidence. The testimony of Majochi was in this respect important, because it had received full confirmation, and because there never was a witness who had been so distressed by Counsel as this witness had been in the course of his cross-examination. If he could have been made to contradict himself as to this fact, the opportunity would not have been lost. Had he been guilty of positive misstatement or misrepresentation, the discovery would hardly fail to have been made. If, like his Noble and Learned Friend (Lord Erskine), he went the whole length of what this witness was supposed to have said—but he would, in fact dwell only on what he knew him to have said—he would still infer that this evidence stood in its main features unimpeached. Supported as his testimony had been by the important evidence of Madame De Mont, he should still bestow to give a vote of "content" to this bill, unless he found it fortified by the confirmatory accounts of witnesses on whose credit no suspicion had been cast. In cases of this nature their Lordships well knew that circumstances, although incidental and minute in themselves, constituted sometimes the most material part of the evidence. He would, therefore, allude to such as were spoken of by some of the witnesses, and not from the list of those on whom it had been endeavoured to throw discredit. The witnesses to whom he now referred were Gerolamo Mejani, whose evidence would be found in pages 220 and 231. His testimony in page 236 was also important. So in pages 393 and 394. In pages 397, 403, 419, 423, and 471, would be found a great variety of statements detailing circumstances, all pointing to the same conclusion. Upon the character or credit of the persons who made that statement no imputations had been cast. Alessandro Finetti, Dominico Brusio, Carlo Francatti, Giuseppe Galli, and Giuseppe Guggiari were left untouched by the cross-examination of the counsel against the bill. He would say that there was enough in their evidence, independent of all other, for that House to found its judgment upon. Let them look in the first place at the bills which were given at the Barona, or, as it is now called, the Villa Bergami. (Here the Noble



Earl made several observations, which, whether from our own unfavourable situation, or from some other cause, were utterly unintelligible to us.) Bergami had been highly promoted and distinguished; but this was not all, his elevation was followed by the purchase of an estate for him. One of the Learned Counsel had asked, where were the marks or proofs of an improper attachment beyond the promotion of a favoured servant? This, then, was his answer to that question; her Royal Highness was first found to keep marks of notice and favour on a menial servant, she then appointed him to a considerable office, procured for him the title of a Baron, intrusted him from the beginning with confidential secrets, and finally settled on him an estate. Did all this amount to nothing? and was it calculated to lead a reasonable mind to no inference, strengthened as these admitted circumstances were by so much positive and uncontroverted testimony? (*Hear, hear.*) He would waive some points, merely upon the principle that they rested solely on the evidence of Majocchi and De Mont, and related to different facts, as to which it was impossible that they should confirm each other, and which could not be brought into proximity with the statements of other witnesses. But if their Lordships looked into the examination of Vassali—and no witness had ever displayed more dexterity than that person—they would find him deposing as to a fact at Carlsruhe which was in itself utterly incredible. Then, again, there was a discrepancy between his account and that of Mr. Hownam with regard to the first time when Carlo Forti was taken as a courier. If they referred to Gaggiari's description of what he saw in the pantry, it was opposed only by the evidence of another person who stated himself to have been present, and that he did not see it. Was this to be called a contradiction? There were persons who could not distinguish at three yards' distance a man from a woman, if the former were in a female dress. Of this he could point out examples in that House. But coming to the transactions at Catania, he conceived that the view which they presented was clear, and that not a shadow of doubt rested on it. By one witness it was stated that at first the Princess's room was separated from that of Bergami's by a court, but that he was subsequently removed to that of the Countess of Oldi. Between this and that of her Royal Highness was one occupied by De Mont and her sister. Their Lordships could not have forgotten what was afterwards stated to have taken place, nor particularly the circumstance of the little child, Victorine, crying out for its mama, and the inability of the Countess Oldi to pacify it. This rested not alone on the naked statement of De Mont; it was incidentally supported in subsequent parts of this inquiry. But there was one memorable pas-

sage in the last letter of De Mont, he meant that in which the writer expressed her thankfulness to her Royal Highness "and the Baron" for the favour which they had shown her. Did not this show pretty clearly how close and intimate the union was in which the Princess and Bergami were supposed, by one who knew them well, to live together? The Captain of the polacre had been examined on a very tender subject, and one that he probably had very near his heart—he meant as to the loss of those dollars which he had expected to receive from the bounty of her Royal Highness. But how did he express himself on this subject? He said, that whatever Bergami consented to her Royal Highness consented to, and therefore it was that his dissatisfaction rested with the former. Did not all this clearly show the overbearing influence which this man had acquired over the conduct and affections of the Princess? All that was described by De Mont as having occurred at Catania, was left without contradiction. The Counsel against the Bill had distinctly intimated that Mariette, De Mont's sister, was to be brought forward to contradict her. But she was not brought forward, and what then, he asked, was the natural conclusion? It was admitted that she had been on the spot, and was capable of giving adverse testimony. He should not conscientiously discharge his duty, if he did not state, that, in his opinion, here was abundant proof of the main charge upon which the bill rested. Then let their Lordships turn to the transactions at Aum, where it was sworn that her Royal Highness and Bergami were shut up in a tent. The Countess Oldi, Hieronymus, and Billy Austin, were at Aum, and might have been called to disprove this if they could. When he connected all these circumstances together, he could come but to one conclusion. He knew that he might, and had, become unpopular for the view which he took of this question; he had already been calumniated by those whose native baseness would not allow them to conceive that in a case like this a man might act from a principle of justice only, and without any reference to his own private interest. It had been industriously circulated that he was influenced by a desire of obtaining for himself the appointment of Governor-General of India. Now he had just as much an intention of going to the North Pole as he had of passing the Cape of Good Hope. Yet so current was the belief produced by that sort of rumour, that he had received a letter from one gentleman applying to be allowed to accompany him to India in quality of domestic physician. (A laugh.) Certainly in such a case the gentleman would have no sinecure, for he believed it would not be found very easy to bring him back alive. It was, however, rather hard that a man could not state his opinion fairly without being subjected to

an imputation of acting upon private motives. His own sincere opinion he always would maintain, and should despise himself if he were capable of altering it in one single shade, even out of deference to any authority. (Hear, hear.)

An endeavour was made to introduce the question of expediency into a discussion which ought to turn on principles of justice only. Some noble lords also were prepared to say, that they never would vote for any bills of pains and penalties. This was not, perhaps, the best description of the proceeding now under consideration, but still he would contend that a proceeding by such bills formed an important and valuable part of our constitution. They were on many occasions necessary, in order to create a proper awe among persons in high station. At the same time he fully agreed that it was dangerous and unwise to resort to them, except in cases where the necessity was apparent. None wished more sincerely than himself that the present occasion could have been avoided. The proceedings under it had, however, been throughout marked by a degree of form and solemnity which could not fail to ensure justice, if similar occasions should ever present themselves in future. There had, from the outset, been but one alternative—either to commence by bill or impeachment. As a member of the secret committee, he could not before disclose the reasons upon which its reports were founded. It had appeared to that committee, that the House of Lords, having more judicial habits, and possessing a great advantage in the attendance of the judges, was more likely to bring a proceeding of this nature to maturity in the first instance, than the House of Commons would do if it originated there. He could not understand with what decency his noble and learned friend (Lord Erskine) could pretend to anticipate the decision of the other house; and it really appeared that his noble and learned friend could mean nothing less than to overawe their lordships; he was at one time, indeed, on the point of rising to order. In his heart he did not see how their lordships could do otherwise than pass this bill; and if it should be sent to the House of Commons, they, he doubted not, would dispose of it with the same integrity and justice. Even if expediency were to form part of the question, sure he was that nothing ought to be done on the base principles of fear. (Hear, hear.) He was not in the habit of suffering such a principle to actuate his mind. In coming to a decision, was not he, in common with their lordships, to look to other circumstances which would probably arise, if the guilt of the Queen of England being proved, they should, on a point of expediency, refuse to sanction this measure?—(Hear, hear.) Had they lost their senses, or abandoned their moral feelings on this occasion? And, if they had not, was it possible

they could be induced, by any view of expediency, to concur in sanctioning conduct which tended to shake the ground on which the moral virtues of their wives and children were best supported? If any noble lord entertained such a view of expediency, he never could be brought to join in it; and he had too high an opinion of the House to suppose that their lordships would follow it. (Hear, hear.) His lordship (as we understood) expressed himself gratified by these marks of approval—not on account of any personal feeling, for he had dismissed from his mind every undue bias and impression—he acted solely from a calm and dispassionate view of the whole case; but it gave him pleasure, because he believed that their lordships, one and all, would act on the same principle, and would decide, after hearing all that could be offered on the question, according to the evidence that had been laid before them.

The EARL of ROSEBERRY, considering this to be a question of vital importance, could not allow himself to give a silent vote on it; and, therefore, claimed the right of offering a few observations to their lordships. It was rather to satisfy his own feelings, than from the presumption of imagining that he could address any thing new or forcible to their lordships, that he now requested their attention. Feeling, as he did, after having marked, with the utmost anxiety, all that had passed in debate on this question, the great impropriety of passing such a bill as that which was now before their lordships, he deemed it necessary to place his sentiments on record. Without imputing to himself any peculiar share of coldness, he hoped he might be allowed to say that none of their Lordships could approach this great question more free from party or passionate feeling, or with a more serious determination to look at the subject calmly, both with reference to the merits of the case and to the expediency of the measure. With respect, then to the nature of the measure itself, feeling all those objections to it which must necessarily occur to every man's mind, against proceeding by this method of trial—conceiving that the question, if entertained at all, should not be brought forward in this way—he certainly did, on a former occasion, make a proposition, by which an opportunity was afforded to their Lordships for proceeding by a more regular and unobjectionable mode. Their Lordships, however, thought differently from him, and his suggestion was not attended to. As he conceived that there was something wrong in this course of proceeding, and as it appeared to him that mischievous effects might be produced by such a measure, he had, at the commencement, expressed his hostility to it. But he would now openly state that he embarked in the investigation with a full determination to support the measure, if it were

supported by strong evidence—by evidence uncontradicted—and which was calculated to carry fair conviction to his own mind, and to the minds of others. But, when he looked to the evidence—when he saw that there was a taint of perjury on some parts of that evidence—when he heard other parts of it unsupported by pure testimony—and when suspicions were lurking abroad as to improper means having been used, not only to procure, but to keep back witnesses—he could not, in his conscience, consider the case to be proved. (*Hear.*) When he spoke of the way in which witnesses were brought forward, he had no intention to cast an insinuation against any one of his Majesty's Government; he did not believe that the fault rested with them. But if such a suspicion existed that bad means were adopted in order to produce evidence—if individuals were led to come forward with a view to their own private benefit—and when superadded to this, it was recollected that one witness had been withdrawn, and another could not or would not come—he must conclude, looking to all these circumstances, that as a party in a case which ought to stand on the clearest and most unsuspicious ground, he could not agree to a verdict of condemnation. (*Hear.*) The present was a case of expediency as well as of facts; and in proportion as the truth and strength of the evidence was insufficient to bear it out, in the like or rather in much greater proportion, must the inexpediency of the proceeding be made manifest. All those arguments, to which they might have given way, and to which perhaps they ought to have given way, before proof was resorted to, now that the evidence appeared to have been drawn from suspicious sources alone, became far more weighty and conclusive, and ought, he conceived, to induce their Lordships to pass this bill. He did not wish to detain their Lordships by enumerating all the facts of this case. He was sure the candour of those who took a different view of it from that which he entertained would lead them to give their due weight to those parts of it which appeared most favourable. He trusted, however, that their Lordships would not exclude from their consideration, notwithstanding all that had fallen from his Noble Friend on the cross-bench (Lord Lauderdale), the possibility or probability of the failure of this measure in another place. If it were a measure of expediency, their Lordships ought certainly to look to its probable effects hereafter. (*Hear.*) He hoped, therefore, that the probability of the other House not agreeing in this measure would be duly appreciated by their Lordships. He was well assured that no person could accuse that House with acting under any undue impression: he was convinced that their decision would not be guided by popular clamour, or that they would abstain from doing that which was

right and just on account of any apprehension of popular violence or menace. He disclaimed any such feelings. But he conceived that this House would triumph greatly, if, not listening merely to the rabble, but attending to the general voice of the community, and especially to the more important part of it, their Lordships determined not to pass this bill. (*Hear. Hear.*) Surely it was a matter worthy of their Lordships' serious attention whether they would proceed with a measure that might inflict on them the contempt of all Europe. In this critical moment he implored their Lordships to act, in the present case, according to those principles of benevolence which were worthy of their high and honourable character. If there were any deficiency in the evidence—if there were any suspicion attached to any portion of it—then he would ask, whether justice or expediency could demand the enactment of this severe measure? or, whether they would not, after looking dispassionately at the bill, and at the evidence on which it was founded, abstain from passing a law which would give so great an opportunity to the disaffected to agitate the public mind, to accomplish their mischievous designs, and to attempt a fatal inroad on the most beneficial and venerable institutions of this country? Would they, on this *prima facie* case, risk so great a hazard, and place the safety of the country on so dreadful an issue? These were his sentiments—he knew that many of their Lordships did feel those apprehensions—but, such being the view which he had dispassionately taken, after a proper consideration of all the circumstances connected with this bill, he felt himself called on to give his decided negative to the measure.—(*Hear.*)

LORD REDESDALE said the question had been stated by the noble Earl who had just sat down in a manner, to the correctness of which he could not give his assent. In the first place, the impression that had been made on his mind by the evidence adduced at their bar, and that which it had produced on the mind of the noble Earl, was totally different. He had no doubt that the truth in this case was fully and clearly stated by the evidence for the bill, which contained nothing that ought to influence the mind of any man who attended to it accurately, to throw it aside as unworthy of credit. If such evidence were to be rejected, then, he must say, that no verdict had ever been given, in any court of justice, where a contrariety of evidence appeared, that might not be challenged on the same ground: for, he believed, very few cases could be cited, in which the contrariety of evidence was not greater. He had examined the evidence most accurately—he had read it over from beginning to end; and the impression on his mind was, that this case was more fully proved than any

case which he ever remembered, in which any degree of contrariety of evidence was apparent. Where any doubt or mystery hung over evidence, he had been professionally taught to use a test, which was adopted, not only here, but in every place, he believed, where any thing like a due administration of justice prevailed—namely, where there was any thing doubtful in the evidence, or where it was contradicted, to try those parts on which doubt was thrown, or which were so contradicted, by the test of those facts that were unquestionably proved. When this was done, the truth was sure to be extracted. This mode he had been taught from his earliest knowledge of the profession in which he had so long been engaged; and the adoption of which in another country, where he had been employed in the administration of justice, he found to be indispensably necessary in arriving at a just decision. When he wished to ascertain the truth, he would examine contradictory evidence, in the manner he had stated; but he was convinced that, if evidence were to be altogether rejected because some parts of it appeared discordant, efficient justice never could be done. Evidence that was contradicted he would try by the test of clear and undisputed facts—and he would then judge on which side the truth of the evidence really lay. Now, in this case, there was an abundance of undisputed facts, such an abundance, as, if duly considered, left no doubt as to the side on which the truth and weight of the evidence rested. The facts stated, with respect to what took place on board the *polacre*, admitted of no doubt whatsoever, because they were proved by witnesses called in opposition to the bill. When they knew this, then they must conclude that certain evidence given by witnesses in support of the Bill on this point was unquestionably true, since it was completely confirmed by witnesses brought against the Bill. On which side, then, did the balance of evidence lie? With this impression on his mind, that an important truth, previously stated by evidence in support of the Bill, was rendered unquestionable by witnesses who were adverse to the proceeding, was he to be told that there was ground for disbelief? Unless the clearest and plainest contradiction were given—unless other parts of the evidence given by the same persons, who, opposing the Bill, admitted what occurred in the *polacre*—or given by other persons with respect to the facts spoken to by them, and which went to prove that what was so confirmed was false; unless this were done, where was there any ground for doubt? When he found this striking confirmation of evidence, did any thing remain which could lead him to infer, that even the evidence of *Majochi* and *de Mont*, on which so much had been said, ought not

to be credited? He protested that he believed them both, because he considered them to be witnesses with respect to whose evidence there had been sufficient confirmation to induce him to give credit to their statements. In all cases, it was true, he would not give them implicit confidence, but it would be most unjust if he rejected their evidence altogether. On the same principle he would not reject the evidence of *Lieutenant Flynn*. No; he believed him on certain points. When he spoke of the vessel being under his direction, and of his going to the *Princess* at night, he credited the statement; and what reason had he to doubt it? But, in another part of his evidence, where he chose to say that he looked into the tent—that there was a light in the binnacle sufficient to enable him to see all over it, but that he did not see *Bergami*—he did not believe his evidence, because there was sufficient reason to support that disbelief. He did not mean to say that the witness spoke that which was absolutely false, but something that was not the whole truth. In the same way he would treat the evidence of others. A great deal had been said about *Majochi*. Their Lordships would recollect the testimony he had given, and they would not lose sight of the circumstance that it came before them by means of interpretation. The individual who interpreted his evidence was an Italian. It was, therefore, to be supposed that he was not acquainted with the legal forms made use of in this country; and he believed he was not accurately versed in the idioms of the language spoken in the country from which *Majochi* came. In looking to his evidence they ought to make great allowances on these points, as well as for the manner in which many of the questions were put; and several of the questions and answers were taken down by the shorthand-writer. If they looked to the evidence in that point of view, they would find many palpable mistakes. But still, taking the whole of the evidence from beginning to end, he felt that it was, in its most material parts, entitled to confidence; and before their Lordships' determined to reject it, some plain and evident grounds should be laid for that proceeding. At the conclusion of the speech of his Noble Friend there was a statement, which, in his opinion, was very important. The witness *Majochi* had been cross-examined with great acuteness, until he scarcely knew what he was saying; and on a question being put to him respecting *Camera*—namely, "whether he had not applied to *Camera* to get him restored to her Royal Highness's service?"—he answered, "Let me tell my whole story about it." These words were extremely important, because it was manifest that this man had been frequently interrupted and prevented while he was giving different parts of his evidence. Then what



was the story which he related? He stated a conversation which he had with Camera, which, if true, was unquestionably an attempt on the part of Camera to bring him into the service of her Royal Highness. He attempted, it appeared from the evidence, to obtain from Majochi the certificate of character which he had received when he left the service. The offer of re-employment was made; but Majochi rejected it, and insisted that he should give back to him his certificate. Was this story true, or was it false? If it were false, the fact might have been proved by Camera; and he had to ask if Camera were that description of person which he had been described to be, why was he not brought there? He must, therefore, on every rule of evidence, hold that this story was true; and, if it were true, why was there anxiety to bring forward Majochi, latterly, unless with a view to confuse his evidence? Taking the whole of Majochi's evidence into consideration, he thought that all those parts of it which were in themselves important were entitled to his belief, and that belief he extended to them. With respect to De Mont, he certainly must admit that he did not look upon her as one who had conducted herself with propriety; but was he, therefore, to reject her evidence? He begged to know what would be the state of mankind if the testimony of every person whose behaviour was in any degree light or inconsiderate—who on some occasion or other had conducted themselves improperly—was to be utterly rejected on that account? How many witnesses were there in every cause against whom might be urged all that had been objected to De Mont? The testimony of that witness was to be tried by itself, and by circumstances sworn to by others; and if she were not believed, there would be no security for public justice. Looking at what De Mont and Majochi had sworn, had their Lordships the slightest doubt not only that the Princess bathed on the voyage, but that she was then attended by Bergami, who had handed her down stairs? A doubt had been thrown upon the fact, from a difference regarding the cabin: it was said that the cabin where Majochi said the bath was placed was not of sufficient capacity to receive it: but, if their Lordships attended to the particulars sworn to by De Mont, they would conclude that the Princess probably bathed in the apartment of the Countess Oldi. Whether it was in one cabin or in another was, in truth, a matter of no consequence, the fact being indisputable that the Princess had taken the bath in the presence of Bergami. Garginio, as well as De Mont and Majochi, swore to this point: and De Mont was afterwards, and not till afterwards, called in to assist the Princess in dressing. If the Countess Oldi had been present, why had she not

proved it? If Brunette were there, why had she not proved it? That circumstance alone, in his mind, afforded one of the strongest proofs of the guilt of her Majesty; for what woman, who had not surrendered her virtues to a man, would suffer him to be present as her sole attendant while bathing? What had been said by counsel regarding bathing in the Breasia was just as applicable to any transaction in any other country as to that. The proximity of the apartments of Bergami and the Princess was not disputed, and it was impossible to suppose that the circumstance had occurred in so many instances fortuitously. It was known that plans of the different inns had been taken for the defence, but they had none of them been produced; and as the witnesses who made them could have had no fear of a cross-examination, the conclusion was irresistible. What ground was there, then, for doubting the testimony of Majochi and De Mont on this point? Unless the house meant to deal quite wildly with evidence—unless they intended to destroy all safety for the future, they could not hesitate to believe it. Without fatiguing their Lordships with further examinations of the often-criticised deposition, he would make a few remarks upon what had been said against this measure of a bill of Pains and Penalties. He admitted that such a step ought not to be taken lightly, but he contended that it ought at all times to be in the power of the legislature to take it. What was the Act of Settlement, on which the succession of the crown depended, but a bill of Pains and Penalties? It excluded all but the issue of certain persons, because they professed the Roman Catholic religion. A great number of persons were thus deprived of their rights of inheritance. The second act proceeded on the same ground as the first, only operating more severely, by preventing even those who had renounced the Roman Catholic faith from filling the throne of these kingdoms. Should it be said that a measure was unconstitutional which formed the very foundation of our constitution? The bill excluding the Duke of York was of the same kind; it had come three times before parliament: the first time it was destroyed by a dissolution, and it was not finally successful until after three distinct efforts. This was a Bill of Pains and Penalties, yet it was passed by the men who had settled our liberties on the firmest foundation, in 1688. Were the measures they supported unconstitutional? Bills of Pains and Penalties were sometimes absolutely necessary for the protection of the constitution. When it was urged that they should only be applied in cases of great state necessity, he would ask where was the great state necessity for the South Sea Debt Act? It was certainly an important measure; but state necessity did not render it expedient. Still less would

case which he ever remembered, in which any degree of contrariety of evidence was apparent. Where any doubt or mystery hung over evidence, he had been professionally taught to use a test, which was adopted, not only here, but in every place, he believed, where any thing like a due administration of justice prevailed—namely, where there was any thing doubtful in the evidence, or where it was contradicted, to try those parts on which doubt was thrown, or which were so contradicted, by the test of those facts that were unquestionably proved. When this was done, the truth was sure to be extracted. This mode he had been taught from his earliest knowledge of the profession in which he had so long been engaged; and the adoption of which in another country, where he had been employed in the administration of justice, he found to be indispensably necessary in arriving at a just decision. When he wished to ascertain the truth, he would examine contradictory evidence, in the manner he had stated; but he was convinced that, if evidence were to be altogether rejected because some parts of it appeared discordant, efficient justice never could be done. Evidence that was contradicted he would try by the test of clear and undisputed facts—and he would then judge on which side the truth of the evidence really lay. Now, in this case, there was an abundance of undisputed facts, such an abundance, as, if duly considered, left no doubt as to the side on which the truth and weight of the evidence rested. The facts stated, with respect to what took place on board the polacre, admitted of no doubt whatsoever, because they were proved by witnesses called in opposition to the bill. When they knew this, then they must conclude that certain evidence given by witnesses in support of the Bill on this point was unquestionably true, since it was completely confirmed by witnesses brought against the Bill. On which side, then, did the balance of evidence lie? With this impression on his mind, that an important truth, previously stated by evidence in support of the Bill, was rendered unquestionable by witnesses who were adverse to the proceeding; was he to be told that there was ground for disbelief? Unless the clearest and plainest contradiction were given—unless other parts of the evidence given by the same persons, who, opposing the Bill, admitted what occurred in the polacre—or given by other persons with respect to the facts spoken to by them, and which went to prove that what was so confirmed was false; unless this were done, where was there any ground for doubt? When he found this striking confirmation of evidence, did any thing remain which could lead him to infer, that even the evidence of Majochi and de Mont, on which so much had been said, ought not

to be credited? He protested that he believed them both, because he considered them to be witnesses with respect to whose evidence there had been sufficient confirmation to induce him to give credit to their statements. In all cases, it was true, he would not give them implicit confidence, but it would be most unjust if he rejected their evidence altogether. On the same principle he would not reject the evidence of Lieutenant Flynn. No; he believed him on certain points. When he spoke of the vessel being under his direction, and of his going to the Princess at night, he credited the statement; and what reason had he to doubt it? But, in another part of his evidence, where he chose to say that he looked into the tent—that there was a light in the binnacle sufficient to enable him to see all over it, but that he did not see Bergami—he did not believe his evidence, because there was sufficient reason to support that disbelief. He did not mean to say that the witness spoke that which was absolutely false, but something that was not the whole truth. In the same way he would treat the evidence of others. A great deal had been said about Majochi. Their Lordships would recollect the testimony he had given, and they would not lose sight of the circumstance that it came before them by means of interpretation. The individual who interpreted his evidence was an Italian. It was, therefore, to be supposed that he was not acquainted with the legal forms made use of in this country; and he believed he was not accurately versed in the idioms of the language spoken in the country from which Majochi came. In looking to his evidence they ought to make great allowances on these points, as well as for the manner in which many of the questions were put; and several of the questions and answers were taken down by the shorthand-writer. If they looked to the evidence in that point of view, they would find many palpable mistakes. But still, taking the whole of the evidence from beginning to end, he felt that it was, in its most material parts, entitled to confidence; and before their Lordships determined to reject it, some plain and evident grounds should be laid for that proceeding. At the conclusion of the speech of his Noble Friend there was a statement, which, in his opinion, was very important. The witness Majochi had been cross-examined with great acuteness, until he scarcely knew what he was saying; and on a question being put to him respecting Camera—namely, “whether he had not applied to Camera to get him restored to her Royal Highness’s service?”—he answered, “Let me tell my whole story about it.” These words were extremely important, because it was manifest that this man had been frequently interrupted and prevented while he was giving different parts of his evidence. Then what

hear) On these grounds he should vote without hesitation for the second reading.

Four o'clock being arrived, the Lord-Chancellor put the question of adjournment, which was carried.

## House of Lords,

FRIDAY, NOVEMBER 3, 1820.

The Lord-Chancellor took his seat at 10 o'clock, and after the usual formalities their Lordships proceeded to the order of the day.

EARL GROSVENOR rose, and opposed the bill in a speech of considerable length; but from the crowded state of the bar, and his Lordship occasionally dropping his voice, much of what he said was not distinctly heard. He had attended throughout the whole of this inquiry, had heard all the evidence, and he now felt it his duty, after giving to the case all the attention in his power, here, in the face of the country, to declare that he did not see, in the evidence any proof of the charges which had been accumulated against the Queen. It was, therefore, with him a matter of duty, honour, and conscience, to judge as he hoped to be judged himself on that great day when all their Lordships would have to answer for their conduct on this question, and therefore, to say "Non-content" to this bill. Their Lordships had heard on one side of this question the most eloquent arguments. They had heard the opinion of the Noble and Learned Lord on the woolsack, of another Noble and Learned Lord, and also of the Noble Earl on the cross bench (Lord Lauderdale), who had spoken with great force and energy. The side which he took on this question had unfortunately lost a most powerful aid in the Noble and Learned Lord who was yesterday prevented, by indisposition, from proceeding with his speech. He would now take the liberty of noticing one or two points in the speech of the Noble and Learned Lord on the woolsack. That Noble and Learned Lord had stated, that where it appeared that there were difficulties in the case which bore against the accused, or where there were doubts with respect to the evidence, that her Majesty ought to have the benefit of these difficulties and doubts. He also pointed out the necessity of their Lordships holding the balance of justice even, and of presuming innocence until guilt was proved. He sincerely wished that the Noble and Learned Lord and his colleagues had allowed this principle to operate on their minds at the commencement of this proceeding, and that they had not prejudged this question by advising his Majesty to order the omission of the name of the Queen in the Liturgy. A Noble and Learned Lord, in answer to what had been

observed by a Noble Earl on the propriety of their Lordships taking it into consideration what might be its fate in the other House of Parliament, had said that it would be derogatory to their Lordships' dignity to let such a consideration operate on their minds. He admitted that, generally speaking, this observation was just, and as a general principle he was willing to assent to it. But, on the other hand, when their Lordships knew the nature of the case—when they recollected that it had already been submitted to the House of Commons, and that that House had already decided upon it—when they had pronounced their opinion that the inquiry was derogatory to the dignity of the crown, and injurious to the best interests of the country—when they also knew that the duplicate of the green bag which was laid before the House of Commons had not been romaged and ransacked when submitted to the other House, but that that House not only refused to appoint a committee to look into it, but shoved the filthy bag off their table;—when their Lordships were acquainted with this, and had to add to all this their knowledge of the state of public feeling on the question before them, he did confess that it was with astonishment he had heard the Noble and Learned Lord on the cross-bench (Lord Redesdale) protest so strongly against their Lordships taking into their consideration what probably might be the decision of the other House of Parliament. Before he proceeded to notice some of the details of the evidence, he would again beg to remind their Lordships of the principles which had been laid down by the Noble and Learned Lord on the woolsack. That Noble and Learned Lord had stated that it was impossible for any Noble Lord to vote for the second reading of this Bill, unless he had made up his mind, on a deliberate consideration of the evidence, that an adulterous intercourse had taken place. But the Noble and Learned Lord did not stop there; for he also said—and this their Lordships ought never to forget—that, if there remained the slightest doubt with respect to the proof on their Lordships' minds, that doubt ought to operate in favour of her Majesty. Therefore, in considering this case on the principles laid down by the Noble and Learned Lord on the woolsack, their Lordships were bound to throw out of consideration all the circumstances which had been so strongly dwelt upon by himself, as well as by the other Noble and Learned Lord, and the Noble Earl who had spoken on the same side. Though he regretted taking up so much of their Lordships' time, he must also say a word or two on the question which had been started with reference to alterations which it was supposed might be made in the Bill. It appeared to be admitted, that, when this Bill came into the committee, alterations might be made

both in the preamble and the enacting clauses; but the Noble and Learned Lord was of opinion that if any alterations were made, they unquestionably could not be of a more penal nature, but must be introduced for the purpose of mitigation. Now it seemed to him quite impossible that the Bill could pass at all, but certainly not in its present state. If it should be proposed to pass this Bill without the alterations alluded to, he thought it quite impossible that any Noble Lord could vote for it. On the other hand, if the alterations which had been hinted at were made, it would no longer be the same bill. Their Lordships would then have quite a new question to consider; but her Majesty was guilty of adultery, or of nothing else; and if they could not pass the bill on that ground, on what ground was it to be adopted? and, if they were without sufficient evidence to find that offence proved, they might as well act on the supposition that she was guilty of murder, or any other crime. They might choose to say that she was guilty of fornication, but not of adultery. It would, indeed, be a most extraordinary state of things if their Lordships were to abandon the only ground on which they had any pretence for countenancing this bill, and adopt another. He knew it was said, that this was not a measure for the relief of the King, but for the benefit of the state. But, if it was to be the general opinion of their Lordships that her Majesty could not be divorced, what was the object of the bill?—As he had already said, if she was guilty of any thing it was adultery. Was it then to be said that she was to be the wife of the King, but not the wife of the country? that this was to be a divorce from the state? If, however, the bill passed in this most extraordinary shape, it would become a laughing stock to the country (*hear, hear.*) The Noble and Learned Lord, and the Noble Earl who had spoken in support of the bill, though they differed as to the extent of credit which was to be given to some witnesses, still took nearly the same view of the question, as to the general discredit to which part of the testimony was liable. The Noble and Learned Lord on the woolsack had said that he would not allow any evidence against the Queen, which was not clear and satisfactory to operate on his mind. The Noble Earl, though he did not give entire credit to Majorchi, De Mont, and others, yet gave to their statements such a degree of credit as influenced his mind, and gave more weight to their testimony than to that of Carrington. Thus the application of the principle of credit and discredit of evidence was very different. The Noble and Learned Lord threw out of consideration the scene on the journey to Sinigaglia; but dwelt a little on the Barona, and insisted chiefly on the conduct of her Majesty and Bergami on board the polacre,—

With regard to the Barona, it had been alleged, it was purchased by her Majesty for Bergami; but this had not been proved, and therefore, according to the principle laid down by the Noble and Learned Lord, that circumstance ought not to operate on their Lordships' minds against her Majesty. With respect to the points to which he had referred, they stood on the same grounds as all the rest of the case. There was nothing criminal proved, nothing of the kind, attempted to be proved, on credible testimony. In the absence of proof, it was possible that there might be suspicion in the minds of some of their Lordships, but suspicion was not sufficient to warrant a vote for this bill. With regard to what had passed at Carlsruhe, the evidence was most absurd, and had been contradicted by respectable testimony. But it was extraordinary, that though the noble and learned Lord admitted this contradiction—though that case was no longer dwelt on as a proof of guilt, but was completely abandoned—yet it was singularly enough regarded as a suspicious circumstance, that a gown or cloak resembling that worn by her Majesty should be found in the bed of Bergami. Now if this absurd tale was to be believed, and if their Lordships were to decide upon possibilities, it was surely just as possible that this piece of dress had been put into the bed by some enemy of her Majesty as that she had left it there. Their Lordships had heard of Baron Grimm's and Reden's running about the inn, and peeping into every corner where her Majesty had been. One of them had contrived to get her Majesty into the rooms which he had previously occupied. Might not, then, one of these Grimms have left the cloak in the bed? This surely was very possible, and if possibilities were to be admitted on the one side, why not on the other? One of the Grimms, who had been seen running about, and looking into the beds, might have placed the cloak in the bed as *Iago* dropped the handkerchief of *Desdemona* in the chamber of *Cassio*. He was afraid that there were still *Iagos* in the world, and this case would, perhaps, be considered a proof of their existence. At any rate, if conjectures were to operate on their Lordships' minds, let them operate fairly. Why should they be all on one side, and none on the other? With regard to what had been said respecting the sudden elevation of Bergami, he would ask their Lordships whether any person would have considered that at all extraordinary if it had not been for the allegations of criminality with which it was connected? Would the case of Bergami have struck them as any thing else than that of a person raised for meritorious services? If their Lordships dismissed from their minds the scandalous reports on which this proceeding had been founded, they might probably see the ground



to suppose that the Queen had many very justifiable reasons for promoting Bergami. Might not various circumstances—circumstances even of importance to the safety of her Majesty's life—have given rise to that man's advancement? After what had happened with respect to Ompteda—after all that their Lordships had heard respecting the manner in which her Majesty was surrounded by spies and enemies of every description at the Villa d'Este, and elsewhere—was it not possible that she might have had motives of attachment to this man which were not criminal? Might they not suppose that she placed confidence in him in return for his protection, and that if there was any attachment, it was that of gratitude? It also appeared that he kept her Majesty's accounts remarkably well, and that might be another reason for bestowing favours on him. As to Bergami's relations having been taken into the Queen's service, it almost always happened that, when a person became a confidential servant, his relatives even obtained situations in the family also. But it was said that Bergami's wife had not been taken into her Royal Highness's service. The reason he thought obvious: she was, of necessity, a partaker in the honours, titles, and emoluments of her husband; but the other members of his family were not, and therefore they were provided for. It so happened, however, with some persons that suspicion in this case was all to be on one side, and that the unfavourable side to her Majesty; but he thought it only fair to divide the suspicion. His Lordship then ridiculed the absurdity of the assertions which had been made, in the outset of these proceedings, respecting the sudden rise of Bergami, and his assuming conduct in consequence. All that assumption was said to have followed the pretended scene at Naples—a scene which was completely disproved. But if their Lordships looked at the evidence, they would not find a single word to support these assertions. On the testimony of the most respectable witnesses it appeared that Bergami and his relatives treated her Majesty with the utmost deference and respect; and that to all others his behaviour was strictly corresponding to the station which he held in her Majesty's household. His Lordship then spoke of Lady C. Lindsay's evidence respecting Bergami's coming up to the carriage for drink, on the journey from Rome to Civita Vecchia. It was evident in his opinion, that, even supposing the bottle returned (which was extremely doubtful,) it was not returned to be used again by her Royal Highness. Her Royal Highness and Lady C. Lindsay had previously taken refreshment. His Lordship then examined the polacre case. It was, he observed, by no means proved that Bergami slept under the tent on the sofa or small bed which was

there; but, supposing that, Lieutenant Hownam proved that the hatchway was always open, and had found it so himself in the night-time. A voyage at sea was the most improbable time that any person meaning to be guilty of such an offence would take for the perpetration of their purpose. But he thought, if they had such an intention, they would have fixed their sleeping places below, and not on deck, where they must be necessarily exposed to the chance of observation. There was no mystery whatever in the case respecting the sleeping on deck. There was no pretence for mystery in any part of this arrangement; and, on that account, his inference would be rather that the alleged intercourse did not take place than that it did. He was never in a ship that he did not see that sort of illness among those about him which was very ill calculated to lead to any notion that such acts of guilt as that imputed to the Queen were likely to be committed in such a situation. At sea he thought, were the most disagreeable of all moments for any such intercourse: it was indeed the last place where he thought such scenes as those described were likely to occur. (*hear.*) With respect to the witnesses who gave the only proof, if proof it could be called on such an occasion, he must say that such a set were never seen as those brought forward for the prosecution. He never beheld such a set; and he must say, on the contrary, that he never saw a more respectable set of witnesses than those produced on behalf of her Majesty. The contrast could not fail to have struck any Noble Lord who looked with an impartial eye at the two sets of witnesses.—The only two witnesses who bore a respectable character on the side of the prosecution were the two British Naval officers; and the testimony of one of them, Captain Briggs, was in favour of her Majesty—it was at least a negative testimony in her favour. He had been asked whether there was any thing in her Majesty's conduct, while on board the *Clorinde*, calculated to excite suspicion? His answer was "No," distinctly no: and what was remarkable was, that it was on board that ship the first change of the cabins where the Queen and Bergami slept was alleged to have taken place.—Now let their Lordships dwell upon that circumstance, and couple it with the declaration of Captain Briggs, that it was almost impossible any adulterous intercourse could have taken place between the parties, without its being known to him or some of the crew. Looking, then, at the evidence of Captain Briggs, he was entitled to say that it was negative evidence in her Majesty's favour. Then the house had the evidence of De Mont, the *double entendre* evidence of that person who showed such a disposition to assail the life and honour of her mistress. Now, with reference to her,

he asked their Lordships if it was not the most extraordinary circumstance of all, looking at De Mont's determination to carry the case as far as possible against the Queen, that she was unable to prove one single act of adulterous intercourse; (*hear*) She who had the care of the beds, who was always about the person of the Queen, who must, if such occurrence took place, have a knowledge of the fact, and yet, though the questions were over and over again put to her, the counsel found it impossible to extract from her a single fact of any adulterous intercourse. (*hear*.) She was repeatedly asked, "Did you see Bergami in such and such a situation? Answer, No;" she there stopped short in proving the most material fact. If that circumstance, when their Lordships kept in mind the hostile disposition of the woman to her Majesty, did not make an impression upon their judgment, he knew not what would. (*Hear*.) Then came Majochi, the Chancellor of Cotton Garden (*a laugh*); and after him came Cuchi, who would be raised above all the others upon the pinnacle of infamy. They had also Gargiulo's evidence, and upon that he would just ask whether such scenes as he described were likely to have taken place without being seen by De Mont, and all the other parties in the vessel? (*Hear*.) Then, as to Gargiulo, they must bear in mind not only the remuneration which he was directly to receive, but also the indirect promise respecting the alleged balance he put in a claim for against the Queen. They ought also to bear in mind (those who saw him could not indeed easily forget) the air of coolness and pertness which the witness put on, to give a shew of truth to his evidence. The story of her Majesty bending over the couch, too, had been much dwelt upon; but if true, might it not have occurred without deserving any of the guilty construction which had been put upon it? It reminded him of a story he had heard of—that in a certain city, on a certain day, a certain gentleman, who was jealous of his wife, came into a room where she had previously been in company, and found two chairs placed alongside each other, and from that fact inferred that an improper intimacy had taken place. There was an end to guilty surmises if they were to be vague grounds of this description. He knew very well that in deciding upon this case they would not be influenced by fear of intimidation; he should as little yield to threats as any man, come from whom they might. (*Hear*.) He lamented the whole proceedings upon this bill; and he must say, that, if the King came there, he must hear the comments to which his advisers exposed themselves. On the subject of the Liturgy he must say that no justification could be afforded for striking out her Majesty's name in the way in which it had been so unceré-

moniously struck out in the first instance. It was said that the King had desired the Archbishop of Canterbury to attend him with the Book of Common Prayer, and then commanded the erasure of her Majesty's name from the Liturgy. Whether this were the fact, or not, he had no means of knowing: but, if he were Archbishop of Canterbury (*a laugh*), sooner than comply with such a request, he should have thrown the book in the face of the King who commanded him to do an act which was equally contrary to law, to humanity and justice. (*Hear, and a laugh*) If he were Lord Chancellor, sooner than have set the seal of office to such a command, he would have dashed the seal in pieces at his feet, and thrown away the trammels of his office, rather than submit to remain any longer a part of an household administration who were liable to be called upon for such officers. (*Hear*.) Their Lordships should look to the signs of the times. They would find that nature had rendered them as visible in the physical world, as their own judgment must have shown them to them in the moral one. They had read in Scripture that the stars would run from their courses, that the moon and sun would alter their appearance. When the Attorney General in this case levelled (acting, doubtless, from his instructions—and, so acting, some viewed him as acting innocently) the foul barbs from his quiver against the person of his Queen, his attack commenced in storms; and when the hour for her Majesty's Counsel arrived to make in her behalf their unanswerable defence, the sun emerged in all the blaze of his brightness from the heavy obscurity of an eclipse. Their Lordships, in looking at the present agitated state of the public mind, must see that the moral clouds, charged with thunder, were collecting over their heads: let them, therefore, disperse them, by abandoning this fatal bill. (*Hear, hear*.) Then, indeed, their moral horizon would resume its clearness. Let them, then, put an end to this bill—a breath had created it, and a breath could destroy it; nothing would disseminate wider joy than such a decision—a joy which not only would pervade England, but all Europe. (*Hear*.) It would be felt all over free Spain, and the note of joy would be prolonged beyond the Pyrenees; and Sicily, now become free, would participate in the gladness. Every free nation on the face of the globe would rejoice at such a decision—they would hail it like freemen with their greatest triumph, and none but despots and their slaves would hang their heads upon such an occasion. (*Hear*.) Above all, the free-born Englishmen would rejoice, because the hour of oppression would have gone by. He conjured their Lordships to recollect the prayers which they offered up each morning of their sitting, to Divine Providence, to

guide and direct them in all their consultations, to remove from their breasts "all prejudices and party affections." Why did they so invoke the aid of their divine Maker? Why? Because the all-wise Being knew that the human heart was deceitful. He conjured the house to pause before they adopted a bill so pregnant with the worst consequences. He conjured them not to let the weight of such a measure fall upon so injured, so unquestionably persecuted and long-oppressed a woman. The general opinion was that she was unjustly treated, and unparingly persecuted. He implored them, therefore, with a woman so overwhelmed by unabated suffering, not to exhibit to their wives and daughters the sad spectacle of oppression which she must present if she became the victim of this bill. He finally implored them to judge this measure as they themselves expected to be judged when their functions here ceased. (*Hear, hear.*)

The Earl of Harwood and the Earl of Donoughmore rose at the same moment, and the Lord-Chancellor declared that his eye first fell upon the latter; but the Noble Earl who was thus declared in possession of the House conceded his claim to the former.

The EARL of HARWOOD said, that before he addressed the House upon the question before them, he owed his thanks to the Noble Earl opposite for the very singular courtesy with which he had conceded the point of priority to him. It was not his intention to occupy much of the time of their Lordships in delivering his opinion. He did not mean to go at length, or indeed at all, into the details which were connected with the subject before them. He should state to their Lordships the situation in which he felt himself now placed, which was that of a member of that House, called upon to act in the double capacity of judge and legislator. Considering his situation in that point of view, he desired, before he gave his vote upon the order of the day, to state the reasons which dictated that vote, and by which he wished it to be distinctly understood. In listening to the evidence which had been given at their bar, he begged leave shortly to state the sort of impression which it had made upon his mind. In the first place he should say, that much of the evidence given at their bar had been satisfactorily contradicted, much of it also stood on very loose grounds, and other parts of it he was extremely sorry to say remained upon a firmer footing. (*Hear, hear.*) Upon the whole he thought it was calculated to create some suspicion upon the subject of the inquiry. In alluding to the evidence, he must first consider what was the nature of that evidence. He was not a person to carry his mind with the prejudice which prevailed out of doors upon this point. He could not adopt the prejudice that persons, because they hap-

pened to be foreigners, were therefore discredited to belief upon their oaths; such a prejudice he deemed wholly irrational, and utterly unworthy the character of the people of a civilized country. (*Hear.*) It had been said that this evidence was improperly obtained; he knew not as yet in what manner it had been obtained, and therefore he could not express any opinion upon that part of the consideration. Upon many parts of the case he should abstain from making any observation, for many parts to which reference had previously been made were kept afterwards out of the view of the subject. He must, however, say, respecting the character of the evidence, that, if it had been collected in England, at any moment when a doubt was raised upon any statement in evidence, there was a greater facility of elucidating that doubt when the witnesses were on the spot. In this respect the evidence of foreigners was open to some disadvantages. He should go no farther than that observation; for he had no right to charge any men of any country with committing a breach of their solemn oath, unless their statement obviously led him to draw so harsh an inference. Having stated this, he must now observe that he wished most sincerely he could look upon her Majesty as innocent, as he was of opinion this bill was inexpedient and impolitic. (*Hear.*) The bill was divided into two parts. It might be said to contain but two clauses—one of them a clause of degradation, and the other a clause of divorce. The latter, he understood, was not to be pressed; so that the bill, as ultimately intended, would be solely a bill of degradation against the Queen. There were two great difficulties in this case; and he must, as a lesser consideration, before he examined the bill, consider what would be the operation of the measure, if passed into a law. In this view, and looking at the result, he was persuaded that the bill would be the cause of much inquietude. He was firmly of opinion that this was a measure which should never have been brought forward, and particularly in its present shape. He was equally convinced that, after passing this bill, whatever might be the present feelings of the people, their good sense would always, in the end, lead them to appreciate every public character upon right grounds. Considering, then, that that would be the state of the case, whatever became of this bill—believing that it would be the state of the case if no such bill had been brought forward—he was at a loss to see the wisdom and necessity of such a measure. If there was any thing throughout the entire proceeding which could possibly create a false impression against the good understanding which the public mind was always destined to attain, it would be the means taken against the Queen by this bill, which was

meant to place her to the public view in a degraded situation, against the opinion which prevailed in the country upon the policy of the measure. (*hear.*) Give the people only the fair opportunity of judging without irritation, and he would say in their behalf that their judgment in the long run would always be found correct. (*hear.*) He never, in the whole course of his life, saw it fail: he hoped he never would see it fail in coming eventually to a fair and proper estimate of public character. Irritation and acts of apparent oppression could only impede the formation of a sound opinion in the country, and they were always productive of much eventual mischief. Viewing the subject in this light, he could not support such a measure as the present. (*hear, hear.*) But in voting against the bill he wished to guard himself against being considered as one of those (for he understood there were such) who thought that there was nothing in the circumstances which justified his Majesty's ministers in taking any step whatever upon the occasion. With reference to that point he must say, that though he did not think their judgment correct in resorting to a Bill of Pains and Penalties, still it was a subject upon which many doubts and difficulties might naturally encompass the judgment of any set of men placed in the same responsible situation. In voting against this bill as being impolitic and inexpedient, he must protect himself from any suspicion of being for a moment influenced in his conduct by the clamour or intimidation which was spoken of as prevailing so widely out of doors upon this subject. He had lived long enough to see the ephemeral nature of popular clamour on many occasions—he had often seen them raised, and as often set aside. But, on the present occasion, he lamented that such a measure as this should be pressed in the irritated state of the public feeling throughout the country. He must therefore vote against a bill attempted to be carried against what he must consider the just feelings of the country—a feeling which he had no doubt would be better evinced for every good purpose if the judgment of the people were left to its free exercise: far better, indeed, than by any means which could be devised upon such a subject. (*hear, hear.*)

The EARL of DONOUGHMORE rose to express, in the first instance, his respect for the Noble Earl who spoke last, whose arguments must always be heard with profound attention, on account of his great weight in the scale of the country, his extensive property, his high rank, and every other circumstance connected with his character.—It was, therefore, quite impossible, in rising immediately after such a Noble Lord to pass by his observation without some comment.—In reply, therefore, to the Noble Earl, he must say, with great respect, that he really

was at a loss to know to what point his observations tended. On the immediate question before the house the Noble Earl had said nothing. If, indeed, any thing could be fairly inferred from what had fallen from him, it was, that instead of voting against the second reading of the bill, he should rather have voted for the second reading, for he had, in fact, stated that he did not conceive the Queen innocent. (*hear.*) The illustrious Person inculpated by this bill he did not think innocent; and yet he voted against the bill, though the sequel of his observation ought rather to have been a very different vote. (*hear.*) If the Queen, then, be not innocent in the Noble Earl's opinion, why not state to what measure he should have resorted in such a case? He had sat down without proposing any substitute for the bill, and had merely contented himself with saying that much irritation prevailed among the people of this country, who on all occasions were found to attain ultimately a sound opinion. But was it because irritation prevailed that parliament should give up its duty, and confess that to the people in this state of irritation abroad, they ought to surrender up their duty as a branch of the legislature? (*hear.*) He hoped that parliament would not so far forget its duty as thus to surrender its functions. Having paid this mark of respect to the Noble Earl who had just sat down, he would beg leave to turn to the speech of the Noble Earl near him (Earl Grosvenor). That Noble Earl had indeed rendered it a difficult task to follow him in his flight to the upper regions. (*a laugh.*) Directing his attention to the question of the second reading, he should not trouble their Lordships with any long detail of evidence, but he should tell them what course he meant to take respecting the witnesses. He should put Majocchi's evidence out of the question—he should also put out of his sight the evidence of the woman named De Mont—he should say nothing of that execrable witness Cuchi—nor should he touch upon Kress. In keeping their evidence out of the case, God forbid he should be considered as concluding that any foreign witnesses were not to be believed upon their oaths; he meant to cast no such reflection. It would not be necessary for him to detain their Lordships so long as he had originally intended, in consequence of the able speech of his Noble Friend, (the Earl of Lauderdale) who had gone through the whole of the case in so masterly a manner, as to leave him (Lord Donoughmore) but little to add. He fully concurred with his Noble Friend in his opinion with respect to the elevation of Bergami from a menial situation, the promotion of so many of his family, and his ascent from that low situation to be the companion of his mistress, and not only being appointed her chamberlain, but having almost his whole family brought round her in lucrative situa-



tions. He would not advert to the rapidity of his ascent from his low situation; his elevation was admitted on all hands. Looking to that circumstance, to the familiarities which followed, to the fact of her Royal Highness not only conferring an order on him herself, but procuring other orders and titles for him, and purchasing an estate for his use, he could only draw one conclusion. There were, besides these, some intermediate circumstances, certain little familiarities which were not before noticed, such as putting a chain round Bergami's neck, while yet in his courier's dress, and giving him her portrait: these were not important circumstances in themselves, but when taken in connexion with the rest of her Royal Highness's conduct, they co-operated to show what sort of familiarity it was which subsisted between her and this man. Putting all the other circumstances out of the case, he thought that sufficient was proved, with respect to her Royal Highness's sleeping under the tent or awning in the polacre, to establish the fact of adulterous intercourse: but, when this fact was added to all the previous circumstances, he thought it could leave no doubt on the minds of any of their Lordships. Here they found, by the evidence, that this man and his mistress were under the tent all the nights and most of every day for five weeks. This he thought if no adulterous connexion existed before, when taken with the previous familiarities, could not leave a shadow of doubt on the minds of any of their Lordships. He could not, indeed, conceive how any Noble Lord, after these five weeks of cohabitation (for such he might call it) could have a doubt that an adulterous intercourse then had taken place. The Noble Lord then adverted to the evidence of Gargiulo and Paturzo, several extracts from which he read, to show the kind of familiarity which existed between her Royal Highness and Bergami. It had been said that a ship like the polacre was not a situation which her Royal Highness would have chosen to carry on an adulterous intercourse, if she had been at all so inclined. Now he contended, on the contrary, that such a situation was one where she could have carried on that intercourse in greater security. She had hired a ship—it was solely for her use, and all the persons in it were, for the time, her servants, from whom she could not expect interruption. Indeed this seemed to be the opinion of those on board; for their Lordships would find from the evidence of the captain, Gargiulo, that he had sent his mate and others away from that part of the vessel where her Royal Highness was, that they might not have an opportunity of observing her conduct. The captain was of course aware that she was entire mistress of the vessel, and that she had a right to indulge herself in her pleasures undisturbed.

One observation more with respect to this tent. Their Lordships knew that many cases of adultery depended upon a single fact; but how different was the present? Here the parties were together for six months, for the journey lasted so long, including the land voyage. He did not mean to charge the adulterous intercourse for the whole of the time; but from all the circumstances it must be inferred that it had been carried on for some time, and that it was not curiosity alone which had induced her Royal Highness to undertake the voyage. He next referred to the evidence of Gargiulo, page 122, where he spoke of receiving orders as to the closing of the tent in the day-time, when Bergami was lying on his back on the small bed, and also to having seen Bergami come out of it in about a quarter of an hour after. Now, according to this man's evidence, there were Schiavini and others present on this occasion; and yet, though these persons might have been called to disprove the fact, yet not one of them appeared at their Lordships' bar. (*Hear, hear.*) It was also proved by Gargiulo, that on a particular occasion, when he saw her Royal Highness stooping over the bed of Bergami, he saw the mate, Paturzo, away from the place, and divided the others of the crew in different directions, that they also might not observe what was passing. Did not those circumstances, he asked, prove that her Royal Highness had selected the polacre as a place where she was sure not to be liable to interruption? His Lordship next called the attention of the House to the evidence of Birolle, parts of which he read, and which corroborated the evidence of Gargiulo and Paturzo. He now contended that to the evidence of these men there was no other objection than that of the amount of the compensation they were to receive for coming here. In all their cross-examinations the first question asked them was, how much they were paid? But he maintained that they were not paid more than the circumstances of their situation required, and that the amount of what they received afforded no contradiction to their testimony. Their Lordships, then, had their witnesses in support of the Bill; but they had no witness who spoke to sleeping under the tent on the other side? There was—and most important evidence too—there was the declaration of Lieut. Hownam of his belief that Bergami slept under the tent. He had heard it, he said, and he believed it; and his belief on this point was equally important as the evidence on the other side. Now, with respect to Lieut. Hownam, he would say that he never saw any witness more reluctant in giving his testimony. He admitted that he was under great obligations to her Royal Highness; and of course his feelings were strongly with her. He knew the value of the point to which he was asked, and in proportion to

his knowledge of its value was his reluctance in admitting it. The fact was, however, admitted by him; and looking to his evidence, in conjunction with what was previously sworn, he thought it was impossible to doubt that an adulterous intercourse had taken place; and he wondered how any man could entertain a doubt on the subject who had carefully read the evidence. He would repeat, that there was nothing in the manner of giving their evidence, on the part of the witness to whom he had alluded, which should create a belief that they were not as much entitled to credit as well as persons in higher stations. Here was clearly proved a long process of adulterous intercourse; the parties sleeping under the same tent for five weeks; the tent closed, and no one attempting to disturb those within. Who, he asked, could doubt that, when it was so closed, it was not for a criminal purpose? (Here the Noble Lord suffered his voice to fall so much, that a very considerable time elapsed before we could again hear him distinctly. We understood him afterwards to say, that), no doubt being on his mind of her Majesty's guilt, he should vote for the Bill, though he would do so with regret. He would here be allowed to repeat, after the examinations at their Lordships' Bar, for for now more than 40 days, he was the more confirmed in what he had stated at an early period of those proceedings—the ministers would have failed in their duty if they had not brought this subject before the parliament; and that the secret committee would have been wanting in their duty if they had not made such a report as was laid upon their Lordships' table. In the course of the defence many things had been brought under the consideration of their Lordships, as if the present was any thing but a proceeding where they sat in judgment on a case on adultery; and for four or five days at one time their Lordships seemed not as if they were trying that case, but as if they were trying the Milan commission. Now he begged not to be understood as giving any opinion upon that commission; though he must say, that no effectual charge had been proved against them, so as to cut them down, and render them undeserving of public confidence. At the same time (as we understood the Noble Lord) he wished that some of the witnesses who had appeared here had not been sent. It had been asked for some days, at the bar, who the plain iff was?—that the defendant was known, but there was no plaintiff recognised, as if it could be doubted that the Government was in this, as in all other cases, the prosecutor. He could not see how such a question could be for a moment in doubt. He had every respect for the talent and character of the learned counsel who appeared against the bill; but it was impossible that he could approve of some of their obser-

vations. It had been stated by one counsel that their lordships were going to decide upon a question upon which the public had already decided. He should like to know how the public had decided; and if it had, was that a ground for him to give up his opinion? But he could not think that the public had decided. A portion of it had, indeed, attempted to decide, and they had done so before they could have known any thing which was to be urged for or against the bill. Immediately after the arrival of her Majesty in this country, he had heard of addresses going up to her from several quarters, in which her innocence was strongly insisted upon, before, as he had just said, the parties could know any thing of it. Under such circumstances, then, he would not admit that the public had decided, or, if they could be called the public, he would decline yielding to opinions so expressed. It had been also said at their lordships' bar, that if they gave their verdict against her Majesty, it might be their last decision. (*Hear, hear.*) Their lordships had suffered this language to be addressed to them—language so ridiculous in itself, that he wondered how it could be addressed to reasonable men. Their lordships would, however, he trusted, despise the threat it contained.—(*Hear, hear, hear.*)—Their lordships had long supported their character for integrity as a court of justice and of parliament, above that of any other court whatever. What right, then, had any man either within or below the bar to suppose for an instant that they would not continue to uphold that character? Had any thing been done by them to show that they would be guilty of injustice? Such insinuations were not to be tolerated at their lordships' bar, or elsewhere. Had there been nothing in the conduct of the illustrious person at the head of the government, in the management of the war, and in the bringing it to a glorious conclusion, which entitled him to the gratitude and redoubled loyalty of his subjects? The most arduous and difficult parts of that war had fallen to his lot: he had presided at the helm of its affairs, and the triumphs which he had gained would reflect an immortal lustre over the military reputation of his country.

Several Peers now rose at the same moment; but the calls for Earl Grey were so prevalent, that the rest immediately yielded without waiting for the Lord-Chancellor's decision of priority.

EARL GREY, after a short pause, then spoke in the following effect:—He could assure their Lordships that it gave him pain thus to persevere in offering himself to their attention knowing that he stood in the way of other Noble Lords, whose character gave weight and effect to all their opinions; and he could only plead in excuse his anxiety to deliver his sentiments on this great question, and his fear that he should be unable to do so

if he lost the present opportunity. Should this immediate occasion pass by him, he had some reason to apprehend that it might be impossible for him to discharge the important duty of stating the grounds on which he should vote against the second reading of this Bill. He must observe, in rising, and without any incivility to his Noble Friend (Lord Donoughmore), that it appeared to him necessary to dismiss from his consideration all those topics on which his Noble Friend had dwelt with peculiar earnestness. If there had been any thing improper in the conduct of counsel at the bar during the progress of the inquiry, if they had trespassed beyond the bounds of decorum, or forgotten the loyalty which they owed to their sovereign and the duty which they owed to their country, the House should have marked the impropriety when it occurred, and not have reserved its animadversions till the present hour. (*Hear, Hear.*) But at the same time he must be permitted to say, that his Noble Friend had represented the conduct of counsel in a light in which he should be sorry if the House or if the nation were disposed to view it. He was not there, however, to defend what had been stated at the bar, and he would not imitate the example of his Noble Friend by referring any longer to the subject. If any thing indecorous or any thing inflammatory had fallen from the counsel for the Queen, it was not likely that its effect could be lessened by being thus called back to general recollection. (*Hear, hear.*) Another passage in his Noble Friend's speech was that in which he complained that the Noble and Learned Lord on the woolsack had disappointed him in not having enlightened the House by a judicial review of the evidence, when he was so well qualified for the office. Now he (Lord Grey) should be equally glad to hear (because he was sure of deriving instruction) whatever might fall from the Noble and Learned Lord. But he would contend, on his behalf, that no such duty as that of summing up was imposed upon the Noble and Learned Lord by the situation which he filled. This indeed the Noble and Learned Lord had himself explained in a most clear and satisfactory manner. That noble person was not sitting there as a presiding Judge, but as a Peer amongst Peers, or, if he might be allowed the expression, as a juror amongst jurors. It was his duty to maintain and defend his own opinions, but he was not called on, as in the courts below, to explain the subject matter, or to communicate instruction to those who ultimately found the verdict. These observations were due in justice to the Noble and Learned Lord upon the woolsack, who had himself truly said that he was acting there in the double capacity of juror and legislator; and that the only question for his consideration was, whether this bill—a great state

measure inflicting severe penalties on the highest subject of the realm—ought or ought not to receive the sanction of their Lordships. He had also justly remarked, that the question involved two important points—first, as to the clearness of the proof adduced in support of those charges on which the bill was originally founded; and, secondly, whether, if the proof were clear, the measure could be regarded as one of state expediency. To the discussion of this question the Noble and Learned Lord's duty was confined. Having made these preliminary remarks, he now himself approached the discussion of the question with all the anxiety which the subject was so well calculated to awaken. His first objection was, that this was a bill of pains and penalties. He meant not, however, to argue that in no supposed case could a measure of this kind be justifiable: it was with other views and with other opinions that he had read the history of our constitution. He agreed with the Noble and Learned Lord, that the practice at some of the best periods of our history, that the events immediately following the revolution, showed that our ancestors regarded such bills, whether of attainder or of pains and penalties, as instances of parliamentary power, to be adopted not merely for the safety of the state, but when demanded by some peculiar exigency in its affairs. They were looked upon at the same time as so remote from ordinary practice, so inconsistent with all the forms and principles observed in courts of law, that they could only be justified by a great paramount and pressing public interest. (*Hear, hear.*) It was hardly necessary for him to repeat what he had urged at the commencement of these proceedings, that no such pressing interest was to be found on this occasion. He had also stated his opinion that the mode of impeachment would have been both more advisable, and more constitutional. It was not without surprise, therefore, that he had heard a Noble and Learned Lord on the cross-bench (Lord Redesdale), who had sat in parliament seven years during the impeachment of Mr. Hastings, assert that an impeachment was not maintainable, because the venue in this case did not lie in England. So at least he had understood the Noble and Learned Lord. Now, according to the view which he entertained of the nature and objects of impeachment, it was intended to reach all cases for which no definite law was provided, and to which the formal proceedings of other courts did not apply. It was more particularly applicable to state causes of crime and misdemeanour—causes which could not be met except by a parliamentary process. He had been likewise much astonished to hear it so often repeated that this mode of prosecution by a Bill of Pains and Penalties was more advantageous to the Queen than any

Impeachment by the other House of Parliament. It was difficult for him to conceive that it could be so in the case of any individual: but was the Noble and Learned Lord so ignorant of all that was passing around him as to suppose that the people were indifferent to this proceeding? or was he so confident of the disposition of the House of Commons as not to suspect that, if an impeachment had been proposed, a very different result from that which attended the first proposal of this measure might have taken place? Had it not, in fact, been contended amongst their Lordships, when a motion was made to leave it open to the House of Commons to proceed by impeachment, that they must not deceive themselves, for that such a decision would be equivalent to an abandonment of all proceedings whatever? It was admitted, then, that no impeachment would have taken place, had this matter been left to the disposal of the other house; and he was at a loss to conceive upon what ground therefore it could be asserted that a Bill of Pains and Penalties was the most favourable course which could be adopted towards the Queen. He begged to repeat the expression of his doubt whether it could be so in a case, unless indeed, it were a case of guilt, because there it might furnish an additional chance of escape. But how it was to operate in favour of evidence he could not so easily comprehend. The Queen was to be first tried and pronounced on by their Lordships—tried upon the doubtful points of evidence—and then to be re-tried before another court, where then would be an opportunity of mending the case against her, of producing fresh evidence, and where the whole process must be renewed. Neither was it to be forgotten that the whole force of the Government was drawn out in array against the accused. Under all these circumstances, he could hardly figure to himself greater disadvantages than those under which an individual so placed must necessarily labour. He had heard it said that this was the case in every bill of divorce; but that in itself was an anomaly in our system, and could not be brought into the slightest resemblance to the question now before them. Their Lordships had here to decide a question involving the interests of the state, and setting afloat all the political passions which existed in the hearts of this great community. If it was proper that the proceedings against the Queen should commence in that House, because it already possessed a judicial character, often exercised judicial functions, and could command the assistance of judges presiding in the courts below; why—if their Lordships were thus enabled to form a mature judgment in the first instance—why, upon any principle of mere reason, were they to send their judgment to a court of appeal possessing none of the same advantages,

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which could not have the assistance of the judges, and which could not even administer an oath? That second tribunal, however, possessed a co-ordinate and extraordinary jurisdiction: it was possible that it might come to a decision contrary to that of their Lordships—an event than which, in the present temper, and situation of the country, he could hardly imagine any thing more dreadful. He would say no more on this part of the argument, and indeed the time for it had gone past. The House had decided against his reasoning on this point previous to the inquiry; and after that decision, he, for one, had made up his mind to govern the vote which he should give upon this bill by the evidence alone. In this respect he differed from some of his Noble Friends, to whom he never was opposed, even in the slightest shades of opinion, without feelings of pain and reluctance. But it did appear to him, that he was otherwise reduced to the alternative, either to affix a punishment on the Queen, or to suffer her to sit upon the throne, tainted and blasted by the odious charges which had been preferred against her. The only question with him, therefore, was, how were these charges to be made out? The amount of the charges was, that the Queen's conduct had been so scandalously licentious and disgraceful, that she could not continue to retain her exalted station without bringing dishonour on the country. On this point he could not do better than read the charges, as stated in the preamble. In so doing he should follow the example of his Noble and Learned Friend, whose sudden indisposition, whilst engaged (in conformity with the whole tenor of his glorious life) in supporting the principles of justice, he most sincerely lamented. What then were the charges, as specified in the preamble? It set forth—“That the Princess of Wales had engaged in her service one Bartolomeo Bergami in a menial capacity;”—“That an unbecoming and degrading intimacy commenced between them;”—“That her Royal Highness not only advanced him to a high situation in her household, and received into her service many of his near relations but bestowed on him great and extraordinary marks of favour and distinction;”—“That further, unmindful of her exalted rank and station, and wholly regardless of her own honour and character, she conducted herself towards the said Bergami, in public and in private, in the various places and countries which her Royal Highness visited, with indecent and offensive familiarity and freedom; and carried on a licentious, disgraceful, and adulterous intercourse with the said Bergami, by which great scandal and dishonour had been brought upon his Majesty's family and this kingdom.” This, then, was not a case of simple adultery, but of gross, scandalous, and licentious conduct, which could

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not be overlooked consistently with the honour of the country or dignity of the crown. In fact, no grounds less strong than these which were here taken could justify the introduction of the measure into the House. But to support charges of this description there ought to be clear, unequivocal, and irresistible proof. That proof ought to be derived from witnesses who were above all suspicion; and in proportion as the rank of the accused was high, and the threatened penalties severe—in proportion as the proceeding was new, anomalous, and extraordinary—a departure from all form and precedent—the evidence ought to be of the most unimpeached and respectable character. (*Hear, hear*) The proof should be substantial and irresistible, not made up of inferences or presumptions from doubtful or suspicious testimony; no, not even of moral conviction, but it ought to be composed of evidence which, as an eminent judge had well expressed it, led to a short and obvious conclusion of undeniable guilt. (*Hear, hear.*) Had such a case been made out upon this occasion? It was now admitted, by those who had been the most active in their support of the Bill, that it had not. He was surprised, that he should be called on any longer to argue the question at all, when it was considered to what consequences one side of the argument pointed. He would now, however, proceed to advert to some part of the evidence rendered by the witnesses who had been examined at their Lordship's bar. But he would previously ask whether if, at the end of the Attorney-General's speech, and whilst hearing a detail of circumstances so glowingly described and so confidently stated, it could not have been foreseen that the case at Naples was to be abandoned that the case at Genoa, at General Pino's, at Trieste, at Carlsruhe, at Scharnitz, at the Villa Brandi, that all these stories were to be abandoned, that Sacchi's evidence, with all his filthy tales of beastliness which had revolted their ears, oppressed their minds, and endangered the morals of the community, were not ultimately to be relied on, and that all was to be reduced to the simple polacre scene; if this could have been foreseen, he would ask of any man, he would put it to the Noble Earl (Liverpool) as a man of honour, and who would have the opportunity of answering before his country, whether this bill would have been—could have been—introduced? (*hear, hear.*) It was not probable that any message would have been brought down, but assuredly such a bill would never have been presented for their Lordships' consideration. They would, however, soon hear what the Noble Earl had to advance upon this subject. But it did appear, at present, that after labouring for five and forty days, after "watching until the 12th hour," their Lordships were now called

upon to vote for this Bill of Pains and Penalties, and to consign the Queen of England to infamy and ruin, upon the mere case of what occurred on board the polacre. This was now, according to the Noble and Learned Lord on the woolsack, the sole foundation on which the measure rested. He was aware that a Noble Friend near him (the Earl of Lauderdale) contended still that there were many circumstances, which, although they ought to be discharged from consideration when viewed separately, might, when taken in the aggregate, and used as makeweights in the scale, lead to an important conclusion. It was to his Noble Friend's argument he was now inclined more particularly to address himself, both because it was the most powerful speech which had been delivered on the other side of the question, and appeared to him made the deepest impression on the house.—His Noble Friend complained of the clamour which had been raised against him; he had some reason to complain, for undoubtedly a clamour did exist. He (Earl Grey) was, however, no party to it; on the contrary, he heard of it with regret. It was not probable that, after 36 years' experience of his Noble Friend's heart and character, his Noble Friend would suspect him of now changing his opinion. He could assure him that he gave him credit for acting with the same sincerity as he (Lord Grey) was himself conscious of, and was aware that his Noble Friend carried into every cause that he undertook a degree of zeal and earnestness which naturally exposed him to misconstruction. There was not any part of his public conduct which did not entitle him to respect; and if now and then he betrayed a remarkable eagerness of pursuit, it was only to be traced to the zeal which formed so distinguished a feature in his character. It was therefore with the utmost sorrow that he (Lord Grey) found himself compelled to differ most materially with his Noble Friend, both in his general conclusion and in many of those views and statements, which he hoped he should be excused for saying, were not, in his opinion, made with his Noble Friend's usual correctness. His Noble Friend had begun with Bergami's situation when he first entered the service of the Queen, then Princess of Wales; he had then gone into a detail and deduction of the various stages of his advancement, and had described the elevation of his whole family. He was not disposed to follow him through this history, for he was ready to admit the truth of much of it. He admitted that Bergami had acted in the capacity of a courier; but it seemed that he was of a family which had been once in a better situation, and indeed this representation was partly confirmed by the circumstance of his sister being married to an Italian Nobleman. Bergami himself, although a courier, possessed manners and

rior to his station, and had not shown himself unworthy of his advancement. This was, however, as observed by a Noble Earl (Harewood), a circumstance of a suspicious nature; but he must vindicate that Noble Earl from the construction put upon his observations by the Noble Earl (Donoughmore) who sat near him. He had not understood the former as admitting guilt, but merely as stating that, in the vote he was about to give against the bill, he could not exclude suspicion from his mind, but that a bill of this kind could only be supported by judicial proof, which was here defective. So he (Lord Grey) also said, and the Noble Lord (Donoughmore) would readily admit that he had fallen into a misapprehension, and that there was nothing inconsistent in voting against such a law upon the ground stated. He himself agreed that the great favour shown to Bergami, and the intimacy contracted with him, were deviations from her Royal Highness's rank, and he could not help wishing that she had acted more carefully. But impropriety, although a natural cause of suspicion, was no proof of guilt; and, in his apprehension, there were circumstances and habits which ought to qualify and mitigate that suspicion. Although it might appear paradoxical, he considered that there was something in Bergami's situation which furnished less ground for suspicion than would have existed had he been a person of superior rank. When it was recollected that sovereigns were, in situation, as much above the rest of mankind as a person on a lofty mountain was above the passenger on the plain beneath him, it would not create surprise if it sometimes happened that they acted as if they had lost sight of the proportion which existed between themselves and those below them. Besides, they claimed the right, as well as possessed the power, to exalt individuals from the lowest stage in society to the most distinguished rank and the highest honour. He agreed with his Noble and Learned Friend on the woolsack that the advancement of Bergami differed very much from that of individuals who, after long years of exertion, worked their way to distinction either in the bar or the church, the army or the navy. He likewise thought with him, that it was one of the noblest points in the British constitution, that it placed no bar in the road to promotion before any individual. Still he could not forget that all history, both ancient and modern, and especially our own history, was pregnant with examples of persons elevated from the lowest to the most exalted stations from no other motive than caprice and favour; and, as was said by a Noble Friend of his, it was seldom found that those who obtained that good fortune did not let in some part of their family to partake of it. The rapid elevation of Bergami—and he did not mean to assert that it

was not a circumstance of suspicion—ought then to be considered with some qualification, especially when it was recollected where her Majesty was at that time residing. She was in a country surrounded by war, of which the convulsions, however they might hereafter terminate, had shaken society from its very basis—she was in a country where she every day saw, on the one hand, individuals who had been reduced from affluence to poverty, and, on the other, individuals who had been exalted from obscurity to distinction by the appalling events of the French revolution—she was in a country whose very sovereign had risen from a situation in life as humble and obscure as that of Bergami—nay, more, she knew that, at that very time, the government of England was in amity and alliance with another monarch, whose origin was equally low and contemptible. He again repeated that the elevation of Bergami was suspicious; but their Lordships wanted something more definite than those suspicions, on which so much stress had been laid. Giving those suspicions all the weight and importance which they deserved, still they were only suspicions, and could not stand as proof, and it was by proof alone that the second reading of the Bill then before the House could be in any way supported. That point being established, how stood the case? Her Majesty was charged with having committed adultery with Bergami, the individual whom she had so rapidly exalted. To fix that charge upon her, a variety of proof had been offered, some of which was of such a nature, that, if it were credible, there could be no doubt of her Majesty's guilt. If they could believe the evidence of Majochi, who swore that he saw her Majesty pass twice through his room at night to that of Bergami, in which she stayed for a considerable time—if they could believe the evidence of De Mout, who swore that at General Pino's she saw Bergami twice passing through her room to that of her Royal Highness, where he remained the greater part of the night—if they could believe her account of what had occurred at Catania—if they could believe that she had seen the Queen under such circumstances as could only lead to one conclusion—if they could believe that Sacchi had seen what he deposed to have seen twice at the Villa Brandi, then there was an end of all doubt, and the act of adultery was completely proved. But all his Noble Friends who had preceded him had agreed that the evidence of these witnesses was to be completely discarded, except his Noble and Learned Friend on the woolsack, who adhered with singular pertinacity to the occurrence at Catania. Why was it to be so discarded? Why, but that the witnesses were none of them credible. One thing, therefore, which their Lordships ought always to recollect, was, that every

circumstance of guilt which had been proved against her Majesty was acknowledged, by the authors and supporters of the bill, to rest upon witnesses on whom they could not rely for support in the second reading of it. He should have dismissed the whole mass of their testimony from his mind, had not his Noble and Learned Friend upon the woolsack—towards whom, however severe he might be in the remarks which he thought it necessary to make upon his arguments, he meant no personal disrespect—remarked, particularly with respect to Majocchi and De Mont, that, though he thought that there were many contradictions and inconsistencies in their evidence he (the Lord-Chancellor) could not go so far as to say that they might not have spoken a great deal of truth. He (Earl Grey) would allow that it was possible that upon some occasions they might have spoken truth: but their Lordships could not depend upon their evidence in any single point, unless they were upon that point confirmed by that of some unimpeachable witness: that, however, was a topic upon which he should say nothing further at that time, as he intended to return to it in another part of his speech. His Noble and Learned Friend had said, that though he could not entirely rely upon any part of Majocchi's or De Mont's testimony—to Sacchi's he had declared that he would give no credence whatsoever—that though he could not rely upon any assertion of their's individually, still, when all of them were combined with what had occurred at the palace, he was obliged to attach some belief to them. Was that, he would ask, a proper doctrine or could it be tolerated in any court which called itself a court of justice, that proofs, which individually were so damaged that they could not be relied on, should again be put together, and, after a consolidation of damaged proofs and damaged inferences, coupled with other circumstances which rested on mere suspicion, should be presented to their Lordships as fit grounds for coming to a verdict of guilty? Such doctrine could not be asserted by any man of sense or discretion; and, if he wanted any authority to prove that assertion, he would refer to the opinions uniformly expressed by the Noble Lord on the woolsack, and also to those expressed by another able and impartial judge, his Lordship's brother, which he had lately seen in one of the daily journals (the Morning Chronicle). Earl Grey then read the following extract from the judgment of Sir Wm Scott, in the case of "Evans v. Evans:"—"Show me that a crime has been committed, and I shall not be at a loss to fix the criminal: but to take presumptions in order to swell an equivocal fact, a fact that is absolutely ambiguous in its own nature, into a criminal fact, is a mode of proceeding of a very different nature, and would, I take it, be an entire misapplication of the

doctrine of presumptions. This fact, then, not being a criminal one upon the face of it, and being subject to three or four different interpretations, all of which are perfectly innocent, I think myself by no means at liberty to say that I ought, by presumption merely, to make out this fact to be necessarily an act of delinquency." His Lordship afterwards read a similar opinion of the Lord Chancellor, and then maintained that that was the true light in which acts of the nature then before the house ought to be viewed.

The LORD CHANCELLOR here said a few words to Earl Grey, which drew a short explanation from that nobleman; but the observation of both their Lordships were totally inaudible below the bar.

EARL GREY then continued.—He next came to the consideration of the evidence offered to their Lordships. His Noble Friend on the cross-bench considered it to be so strong as to establish completely the criminality of her Majesty. Though the charges against her Majesty were supported by De Mont in evidence, whom his Noble Friend had said that he did not at all believe; yet he appeared willing to believe her when she spoke to such of them as took place in the presence of others; because, as he argued, if they were not true, those persons whom he stated to be present might have contradicted her; and if those persons were not called to do so, it was evident that they could not, and therefore that the charges were true. He agreed with his Noble Friend as to the inferences which were generally drawn from the absence of witnesses; but the doctrine had often been carried too far; and he was afraid that it was so on the present occasion. It was the duty of their Lordships to see that guilt was clearly proved, not to assume it as being so proved; and it was hard to say to the accused party, when the evidence of the witnesses could not be relied on in general, it could be relied on in some particular instance, because they had deposed to facts of which others were witnesses, and because those persons had not been called to contradict it. One of the persons who had not been called had been particularly mentioned. It had been said that De Mont's testimony on a point of particular importance might have been contradicted by her sister Marietta Bron. But how had De Mont spoken of her sister? Did she swear positively that she (Bron) was in the room when her Majesty passed through it from Bergami's apartment? No such thing: she said that she was not certain, but she thought that her sister was present. If Marietta Bron had been called to contradict De Mont, all that she could have said would have been that she was not in the room when the Queen passed through it. Their Lordships would then have been told that that was no contradiction to De Mont; for De Mont had not positively

sworn that her sister was there. The counsel would likewise have been taunted with not having done enough in calling Mariette Bron: it would have been said to them—"You must call the Countess Oldi." How stood the case with regard to that lady? De Mont stated that the Countess Oldi, upon the night previous to the morning when she saw the Queen come undressed from Bergami's room, passed the night in the Queen's room, and was occupied the greater part of it in calming the cries of the little Victorine. Suppose that the Countess Oldi had been called—she might have stated that the Queen was in her room all night. On her cross-examination she would have been asked how she distinguished that night in particular, whether she knew where the Queen slept on any other night, and several other similar questions, which she might have found it difficult to answer. When even that had been done, their Lordships might have been informed that the Queen had stolen out of the room in the night without the knowledge of the Countess Oldi; and it might even have been added, that the Countess Oldi had been stationed there in order to facilitate the adulterous intercourse, and that she was too near a relation of Bergami's to be entitled to credit. On all these accounts he thought that the Learned Gentlemen at their bar had done wisely in not calling these two witnesses. The reason, too, which the Learned Counsel had alledged for not calling them, would be found perfectly correct, if any of their Lordships would undertake to examine it without prejudice. His Noble and Learned Friend on the woolsack had told their Lordships that they had nothing to do with the irritability of nerve or delicacy of memory which the witnesses might have exhibited, and had conjured them to dismiss it intirely from their consideration. Counsel, however, were not to act upon such principles as his Noble and Learned Friend had advised their Lordships to act upon. Their Lordships must recollect that Mariette Bron and the Countess Oldi were with her Majesty all the time, or almost all the time, that she remained in Italy. If the counsel had called them to depose to a single fact, they would have laid them open to a cross-examination as to her Majesty's conduct during the whole of that time, and also to the declarations—for that was a point not to be neglected—which they might have made in the course of it; and should they have caught tripping upon a single point in the whole of that long period, the lynx eye of his Noble Friend on the cross-bench would have immediately detected it—(loud cries of hear)—and they should have been told that neither of them was entitled to credit. Because they were absent, no one surely could say that their Lordships ought to join in a verdict of guilty against

her Majesty as if that indeed were the only question which they were called upon to decide. For his own part, he must declare that he did not think it was; but if he were put upon his oath, and placed in a jury box to decide upon it, he could not bring himself to pronounce a verdict of guilty upon De Mont's evidence. He had not intended to have said so much upon this part of the case; but his duty, though he did not wish to intrude tediously upon their Lordships, would not permit him to say less. He would not go into the detail of all the contradictions of Majochi, nor point out all the various discrepancies of his story.

At this stage of the business the house was intensely hot from the circumstance of all the windows in it being shut. The Earl of Lauderdale, as his Noble Friend, Earl Grey, seemed incommoded by the heat, rose, and moved that the windows should be opened. After this had been done,

Earl GREY continued.—Another consideration which he wished to press on their Lordships was, that they had considerable proofs before them of attempts having been made to corrupt the servants of her Majesty. Considering the way in which those attempts had been made—considering that the sister of De Mont had been in correspondence with De Mont herself—a correspondence, too, which had been conducted on a system of *double entendres*, in order to defy detection and inquiry—considering, too, how much her Majesty had already suffered from the treachery of her servants, it was not surprising that her counsel, in the exercise of a sound discretion, and in direct opposition to her avowed wishes, had abstained from calling her attendants as witnesses. His Noble Friend on the cross-bench had also been mistaken on another material point. His noble friend had said, that when her Majesty's counsel opened their case, it must have been their intention to have called Mariette Bron to contradict De Mont as to the precise morning when the occurrence at Catania was said to have happened; but if their Lordships would look to the evidence, they would see that De Mont had not fixed any precise morning for it; or else, if she particularized a morning, it was the morning on which the Queen sent for her into her own room to dress her, in which case she contradicted herself by saying that the Queen came out of Bergami's room undressed. If she meant that morning, he repeated that she had contradicted herself; if she did not mean that morning, no precise morning was fixed, and therefore it was impossible to contradict her. Besides this, and in order to obviate all misconception, the learned counsel had stated that he intended to call M. Bron, not to speak to any particular fact, but to depose to the general innocence and propriety of her Majesty's conduct. He did not intend to



say that they ought to rely implicitly on the assertions of counsel, but he thought that their Lordships ought to be set right upon that particular point, in order that this great question might not be decided without their having it brought fairly and impartially before them. With regard to the evidence of Majochi, his noble friend on the cross-bench (Lord Lauderdale) had said that it had not been affected as much as the evidence of Hownam. He (Earl Grey) maintained to the contrary: there were no less than six or seven flat contradictions in it; and if he were called to fix upon any one of them in particular, he would fix upon that where, in deposing to her Majesty's passing through his room to reach Bergami's, he positively denied the existence of any other passage by which she could have reached it; though, at last, in his cross-examination, he had been brought to admit that there was another passage, and that, too, in a manner, of which none but a false and prevaricating witness would have been guilty. He did not rely on the contradiction which had been given to him by Carrington, though Carrington had received such a good character from Sir John Beresford: for, independently of that contradiction, there were several others offered to Majochi's testimony, not indeed by other witnesses, but by himself. What should he say of Majochi's want of recollection, under which he had sheltered himself, upon points which it was impossible for him not to remember? He was asked "were there any sheets on the bed?" which he had before sworn he had been in the daily habit of making. His answer was, "I don't remember." He was asked whether he knew where the other livery servants slept, and he replied again, "I don't remember;" that too when he had described the arrangement of the different bedrooms with great accuracy in 15 or 16 different places. Under those circumstances, did he not stand so disqualified as a witness, as to render it impossible for any man, who really wished to do justice, to attach the slightest credit to an assertion of his? Did their Lordships recollect the manner in which he had deposed to hearing the creaking of the bed through two decks? a question by which he (Earl Grey) had been so disgusted, that he could not conceive what insatiation could have led the Learned Counsel to put it. Had they forgotten the glee with which Majochi had recounted the use to which he said that the bottle found in the carriage was applied? Surely they could not: for it showed a malignant spirit in that witness, which, till that time, he had thought could not have existed in a human creature. But then his Noble Friend on the cross-bench had asserted that there was no contradiction as to what Majochi had said about his mode of life at Gloucester. This, too, he (Lord

Grey) must deny; for Majochi had been so decidedly contradicted by his own evidence, that it became quite unnecessary to call other witnesses to do it. He had said, first of all, that he did not know, not in the least, a person of the name of Hughes, but he afterwards stated that he knew him so well that he was in the habit of calling him his brother. His Learned Friend on the cross-bench had, however, given him great credit for the answer which he had made to a particular question about Camera, when he had said "Softly, softly; let me explain that circumstance." For his own part he (Earl Grey) did not perceive how that answer rendered his testimony more convincing, and therefore he should dismiss it from his mind at once with this observation, that he believed Majochi to be an incredible witness. He would next solicit the attention of their Lordships to a fact which appeared to him to throw a strong attaint upon the whole case. The four principal witnesses who had been called against the Queen were Majochi, De Mont, Sacchi, and Rastelli—all four he discarded servants. Three of them, it appeared, were dismissed in November, 1817; Majochi two months after that time. The proof of guilt adduced against her Majesty was limited to the time during which they were in her service (*loud cries of hear*); and from the time when they left it, from 1817 down to the present period, there was not even an atom of proof of improper conduct—there was not even a whisper of suspicion—there was not even an allegation of scandalous behaviour—there was not even a presumption of guilt, much less any direct proof of adultery (*loud cheering*)—there was not an iota of charge against this unfortunate accused Queen—for unfortunate he must always consider her, notwithstanding her exalted rank—which did not rest on the testimony of these four witnesses, all of whom had been dismissed from her service for some cause or other. Two of them were in possession of secrets highly important to her Majesty—and, in talking of presumptions, they ought never to lose sight of this presumption—which, if their story were true, her Majesty must have known that they were able to prove against her. Yet still they were dismissed! One of them, too, he meant De Mont, had been dismissed for what she knew to be false; and he was sure that their Lordships would not forget that she had confessed at their bar that she had made a false charge, and what she knew to be a false charge, against her Majesty. It appeared, too, from her own letter to her Royal Highness, that she had been dismissed on account of the improper connexion which subsisted between Sacchi and herself; for what else could their Lordships infer from that part of it in which she stated that the errors which she had committed were to be attributed to that fatal passion

which had such influence over the lives and destinies of men? When he considered that circumstance, and also the important part which Sacchi had played in bringing De Mont before the Milan commissioners, he felt perfectly convinced that those two wretches were at the root and foundation of the conspiracy which had been unfortunately got up against her Majesty. De Mont, with her own letters staring her in the face, had deposed to the gross indecency of her Majesty's dress at Naples; but on that point she had received the most satisfactory contradiction from Sir W. Gell and Mr. Keppel Craven—witnesses who, in spite of what had been said by one of his noble friends, were placed far beyond the reach of all suspicion. (*Cheers*) They had sworn that her Majesty did not appear upon that occasion in a state of indecent nakedness; and Sir W. Gell, from that knowledge of antiquity by which he was distinguished, had been able to refer them to the model from which her Majesty's dress had been taken, and which proved, to the satisfaction of every candid man, that it was quite the reverse of nakedness and indecency. Their Lordships, if they looked to the dress of some of their own wives and daughters, would find that their dresses, in the vagaries of modern fashions, had often led to much more shameful and indelicate exhibitions than that upon which, as a foundation, the whole fabric of this abominable conspiracy had been built. Though no suspicion of guilt had ever arisen from such exposures, he trusted that the ladies of this country, warned by the experience of her Majesty, would abstain from them in future. If the present proceeding had no other effect than that of correcting the indelicacy of certain modern fashions, it was likely to do good, for he must tell the sex in general, that the more abstemious in displaying their charms, the more likely they were to attract and captivate. In a language that had lately been familiar to most of their Lordships, he would say, *quanto meno nuda, tanto piu bella*. (*Hear.*) There was another observation which he wished to make, about the room in which her Majesty had changed her dress at Naples. He was prepared to say that the statement of De Mont regarding it had, when made, shocked and disgusted him, as being totally contrary to all the principles of human nature, and he should have been convinced of its utter falsehood even if it had not received so strong a contradiction from Sir W. Gell. What! could their Lordships believe, that at a time when her Majesty was described as passing whole nights in the arms of Bergami, she would retire to her dressing room to expose herself to his view, and to gratify a passion which she had much better opportunities of gratifying elsewhere? In addition to that, could they believe that she would have placed De Mont at the door as a

sentinel upon her guilt? The bare statement of such a thing was incredible; but it had been completely contradicted by Sir W. Gell, who had shown that the room was open during the whole night, and that he and others had frequently passed through it. When the malignant purpose for which these facts were stated was rendered evident to their Lordships, could any man doubt of the falsehood of De Mont? He must now return to the evidence of Majochi, who had been contradicted by Dr. Holland, in his assertion that her Majesty was present when the Doctor dressed Bergami's foot. His Noble Friend on the cross-bench had stated that this contradiction was not a material circumstance. Not a material circumstance! For what purpose then had it been mentioned, except to show the existence of an improper familiarity between Bergami and the Princess? What could they infer from a contradiction on such a point, except that Majochi had wilfully perjured himself? The evidence of Sacchi next came under consideration. He had said at the Villa Brandi he had seen Bergami enter twice at night into her Majesty's apartment, and had remained there a considerable time. If their Lordships could believe Sacchi, no other proof was wanted for the passing of the bill. It had been said he had furnished means in his testimony for being contradicted, and it had been added that no contradiction had been attempted. In his opinion it was totally unnecessary, for the manner in which he had contradicted himself, regarding the tumult which had occasioned his change of name, rendered any other contradiction a work of supererogation. The case, as far as depended on Sacchi, had been completely blown out of court. The Noble and Learned Lord on the woolsack might shake his head and deny it, but he maintained that it was as he (Earl Grey) had asserted; for what was it that Sacchi had sworn? Why, that he had ridden as courier on that journey, and that, upon drawing the curtains of her Royal Highness's carriage, he had seen that disgusting and abominable spectacle described to the house. What was the contradiction offered to him by Carlo Forti? That he did not ride at all upon that journey—a fact which was confirmed by the negative evidence of Colonel Olivieri, who said that he did not recollect seeing Sacchi on the road as also said Hownam and Vassall. There was, however, a more decisive contradiction as to the carriage. Every witness that had been called had proved that her Royal Highness travelled on that occasion in an English landalet, with glass-windows and spring-blinds—so that, upon that point, there was the positive contradiction of Sacchi's riding on the journey, and also of his riding up to the carriage to undraw the curtains. Nobody could entertain a doubt of Sacchi's false-

hood, seeing that he was contradicted by eight unimpeachable witnesses. He would now state that it appeared to him that the Adam and Eve story was completely exploded—so, too, the fiction which Guggiari had invented regarding the boat-scene. His Noble Friend on the cross-bench had maintained that this story was perfectly untouched; for, said he, one man saying that he did not see what another positively swore that he did see was no contradiction; besides Maggiore was, it appeared, an old blind boatman.—But it was a little unfortunate for his Noble Friend, that the boatman, who had contradicted the testimony of Guggiari, was not at the time when the circumstance was said to have taken place, afflicted with any complaint in his eyes. (*hear, hear.*) On the contrary, that complaint attacked him long afterwards. (*hear, hear.*) That complaint which nobody else discovered, but which his Noble Friend, although at a great distance from the witness, did discover, with that lynx-eyed vigilance which saw every thing that made against the Queen, but nothing that operated in her favour, did not attack the witness until after the period to which his evidence referred. (*Hear, hear.*) Guggiari swore that he saw the Princess and Bergami kissing in a boat, on the Lake of Como, and he named several other persons who were present at the time, persons of respectability; none of whom were called.

The EARL of LAUDERDALE, as we understood, observed that there was no evidence of any persons being present on the occasion alluded to but boatmen.

EARL GREY.—Nothing then, it appeared of an improper nature, ever took place except in the presence of boatmen, masons, bricklayers, labourers, and all that mass of vagabonds who had been brought to their Lordships' bar on this occasion. Her Royal Highness was, it seemed, seen by this Guggiari acting as he had described, and he spoke of Lago Maggiore as one of the persons then present. Maggiore was called—and what did he say? That he rowed on the bench next to the Princess and Bergami; that the other men were two benches behind him, and that, he could see no such thing as Guggiari had sworn to, although he had a full view of the interior of the cabin. And yet his Noble Friend told their lordships that there was no contradiction of this important fact. Maggiore had a full view of the cabin; he deposed that he saw nothing of the kind attempted; either did those who were sitting with him, and who were so placed as to see all that was going on in the cabin.—This inference was to be drawn from the statement of all these witnesses, that they related facts which were excessively suspicious and doubtful in themselves, facts that were culculated, without looking at those by whom they were given in evidence, to create

a strong suspicion of their accuracy. Galdini, a mason, told a most improbable story, though his Noble Friend had declared that he saw nothing in his evidence to create a strong doubt. What did he say? He told their Lordships that he had 20 or 30 persons employed under him, who, in consequence of some mismanagement, were losing their time, much to his vexation and discomposure. He wished, therefore, to see the factor, in order to have the error rectified, and he found his way into the room of the Princess or of Bergami, he (Earl Grey) had forgotten which. He had thus easily entered an apartment, which, if the rest of the evidence were to be believed, was so contrived that any danger of interruption was rendered almost impossible. This man, instead of going to the proper office to find the factor or agent, Santino, proceeded to the Princess's room, and there saw her and Bergami in an indecent situation.—This story itself, was, in its very nature, most improbable; and, when he looked at the evidence given in this case, and saw that much of it was of the same description, he was compelled to view it all with the greatest suspicion. Had they not matter, in proof, which must oblige them to look at the evidence with distrust? Was it not sworn that Reganti went to an individual and proposed to him to support a story of indecency, which he (Earl Grey) would not repeat? Did he not also go to another, Filippo Pomi, and suggest to him, that if he gave evidence of his having seen Bergami put his hands under the petticoats of the Princess, it would be beneficial to him? In answer to that Pomi said "No, she is a good lady, and I will not speak falsely of her." When they found that evidence was sought to be procured in this way—when they saw the nature of the evidence, when they knew that witnesses received money for their testimony—when they were informed, that individuals got rewards for saying "We saw the Princess kissing in one place," and communicated the fact to others, by telling them that they would receive as much if they swore "they saw her embracing in another situation"—was not this enough to induce reasoning men to discard all this purchased testimony, as totally unworthy of credit? (*Hear, hear.*) It appeared from the evidence of most of these people, that they never mentioned a syllable of what they had seen, at the time when the circumstance took place! So prudent, so modest, so reserved were these witnesses, that they never mentioned a single word of what they had seen to any human being until they were called on to give their depositions before the Milan commission! This circumstance showed at least that they did not disclose any thing until the traffic in evidence became profitable, and then they came forward, like disinterested persons, to tell all they knew.

Queen did not appear to him to come before their Lordships surrounded by all that mystery and concealment which commonly attended the tracing of a man in the night, to the apartment of a woman, and his staying there, under those peculiar circumstances which would only lead to one inference and conclusion. It was, he thought with the Noble Lord in the gallery (Lord Harewood), a circumstance of a suspicious nature, which he regretted to have occurred, and for which the reason and excuses that had been assigned did not appear to him to be altogether satisfactory. That circumstance might, however, have existed, under the peculiar nature of the case; and considering how her Royal Highness was situated on board the polacre, it might have appeared consistent with perfect innocence. In the first place, they had the evidence of Paturzo and Gargiulo, with respect to this fact of Bergami having slept under the tent. With respect to that point, there was no reason to doubt those witnesses, the fact having been admitted. But there were other statements made by them, with a view to give a particular colour to that fact, which were worthy of animadversion. They had stated a great deal about the kissing that took place on the deck, and about the letting down the tent in the middle of the day, on which circumstance his Noble Friend rested, as affording conclusive proof of guilt. He, however, would come to no such conclusion. In the first place, he did not look on those two persons as unsuspicious witnesses. They received large sums of money here, added to which, he could not lose sight of the force that was made use of by the British minister to compel them to come to England for the purpose of giving evidence. He assumed these to be circumstances of a very suspicious nature. But these were not the only ones. When he heard Paturzo say that he was sent away by Gargiulo, because, being a simple and innocent young man, his relative was fearful that his morals might be polluted by witnessing those scenes on the deck; when he heard this modest Sicilian skipper declare that he had removed his mate from scenes of this kind; when he had heard statements like these made by such witnesses, and contrasted them with the manner in which they gave their evidence, he confessed, coupling it with the extravagantly disproportioned sums they were to receive, that it operated to create a strong doubt in his mind with respect to their veracity. But his cause of suspicion did not stop here. Was it another proof of Gargiulo's determination to speak the truth in this case, when he stated that he left the Queen under some circumstances of discontent, because he had refused to go to Venice? How did he give his evidence on this point? "I was dismissed," said he,

"on account of Bergami, because they wished that I should have carried them to Venice, at the departure from Rhodes; the Princess commanded, for the Princess always commanded what Bergami commanded, that they wished to go to Venice." This sort of treatment, instead of confirming Gargiulo's evidence, in his mind, tended to break it down, because it showed that he wished to bring in every circumstance that could in the smallest degree operate against the Princess—a proceeding which appeared to him to be exceedingly suspicious. It appeared also that there was a quarrel, and a complaint also in consequence of that falling out. He had, he said, been promised a present of 6,000 dollars, which had been afterwards refused, and he complained much of Bergami and the Queen on that account. He stated the circumstance to the Sicilian minister, and an application had been made here on the subject. This was a circumstance that might induce Gargiulo to give a colour to his evidence, which it would not fairly bear. But, in the course of his examination (p. 136) this material fact came out: it appeared that he not only was to have a remuneration for his time, but that he came here directly under the influence and expectation of receiving the sum of 6,000 dollars. The evidence was as follows:—

"In consequence of the memorial presented to your Ambassador, have you received any compensation?—I have received nothing; nay, my minister, and the colonel to whom I have mentioned it, told me that they knew nothing, and that I might go to London, and then might see upon this particular."

So that when he was coming to London on this cause, he was told by Col. Browne that he would then have an opportunity of seeing about this particular, namely, the present of 6,000 dollars. The next question put to him was, "What Colonel do you mean?" and he answered, Col. Browne. It appeared that Sir W. A'Court had bargained to give him a thousand dollars per month on account of his loss of time, while Col. Browne had held out to him the hope of recovering the 6,000 dollars that had been promised. He came here, therefore, under a mass of temptation: and, when that was clearly proved, could it be said that no circumstances of suspicion were cast on his evidence? But let their Lordships look at the fact itself to which Gargiulo and Paturzo had deposed. Was it to be believed, that those persons were so eager to gratify their lustful appetite, (as had been coarsely said,) that they could not abstain for a moment; but, in defiance of all decency, must proceed to exhibit themselves in the situation that had been described, before the whole crew of the vessel, while they were taking the fresh air in the evening after their



nam's statement, that he did not know where Bergami slept on board the polacre, seemed to think that he had been guilty of prevarication. He was convinced, if his Noble Friend, or any other individual, looked at that evidence calmly and dispassionately, he would not find any reason for supposing that Lieutenant Hownam manifested a disposition to prevaricate. In the first place, it would be seen through the whole of his evidence, that he made a clear distinction between what he knew of his own knowledge, and that which was matter of belief, a distinction to which his mind was particularly directed by the Learned Counsel. He was asked, "Do you know where Bergami slept?" And he answered, "I don't know." He knew that an attempt was made to ask him on the examination in chief, "Where do you believe he slept?" But the question was stopped. If it had been allowed to be asked at that moment it would have put an end to the idea that the witness meant to prevaricate. It was, however, asked on the cross-examination—it could have been asked in no other way—and what was the answer? "I have heard that Bergami did sleep under the tent." On the question being repeated, he said without hesitation, "I have heard and believe, that he did sleep under the tent," and he stated his reason for forming that belief, namely, that he had seen Bergami handing the Queen down stairs one night when the ship was struck by a squall off Caramania. Here there was no appearance of prevarication. Now, though he did not mean to contend that the contradiction given to a part of his testimony by Capt. Briggs was unworthy of notice or remark, yet he thought that his Noble Friend had pressed a little too hard on the witness when he said that in the course of his examination he had wilfully prevaricated.—There was, he contended, no prevarication. But his Noble Friend had pressed still more severely on this witness when he said, that if there were no mystery on board the polacre, then Lieut. Hownam and Lieut. Flynn were the most perjured wretches in existence—words which he regretted his Noble Friend had made use of on such an occasion. What Lieut. Hownam had said might have been given in evidence by the truest witness. He might state, with perfect propriety and justice, that he did not know a thing of his own knowledge, though he believed it to have happened, having heard of the fact in such a way as left him no room to doubt. Surely there was no inconsistency in this. A person of far less ingenuity than his Noble Friend might easily reconcile such a statement to the strictest truth, if he were so inclined. With respect to Lieut. Flynn's evidence, the contradiction which it presented with reference to Schiavini's writing must strike every one at the first view. He believed, however, that the witness did not

mean to speak natruly, but that contradiction and other inconsistencies which appeared in the course of his examination must exclude his testimony from consideration in this case. He did not think that those inconsistencies were the offspring of intention, but they arose from confusion of intellect. Whether, however, they were produced by one or by the other, the effect on the witness's evidence was the same; that evidence must be excluded from the consideration of the case. It was, however, a little curious to observe, that the Noble and Learned Lord (Redesdale) admitted the validity of Lieut. Flynn's evidence, with respect to one fact, on which he was at variance with Gaigiola. The latter had stated decidedly that he commanded the polacre, a statement which was completely contradicted by Lieutenant Flynn. The fact was not, however, very material. He would now admit, that, by the evidence of five witnesses, and the admission of Lieut. Hownam, the fact of the tent scene on board the polacre was placed before them. His Noble Friend had stated, that the admission of Lieutenant Hownam came on her Majesty's counsel by surprise, and that, from the moment it was made, the whole course of the defence was altered, and an endeavour was made to prove a conspiracy. This certainly was not the fact. He had listened with the utmost pleasure and attention to the strain of eloquence, correct reasoning, and legal argument in which her Majesty's case was opened by her Attorney-General, and he certainly did not recollect him to have stated, as a part of his case, an admission that Bergami slept under the tent; but he was equally certain that his Learned Friend did not state that he meant to set up a denial of that fact as any part of the defence, which he assuredly would have done, if he had intended to introduce such a denial. Besides, if his memory did not fail him, Mr. Williams, in his admirable comment on the evidence that had been called, and his eloquent statement of that which was to be brought forward, distinctly admitted that the fact would not be disproved. No attempt was made to alter the course of the defence, in consequence of any thing that had been stated by Flynn or Hownam. It was, it appeared, intended, originally, that the defence of the Queen should not be supported by any effort to cast a doubt on the fact that Bergami had slept under the tent. The principal circumstance that took place on board the polacre was, as he had just observed, proved by five witnesses, and supported by the admission of Lieutenant Hownam; and it amounted to this—that during five weeks Bergami did sleep under the tent of the Queen. The question was, were their Lordships to infer from this, that the criminality of the Queen was so decisively proved as to justify a verdict of guilty? The conduct imputed to the

not amount to the fair conclusion of guilt, which alone could justify the verdict of guilty. But that was not the question which they were now going to consider, they were also to decide on the nature of this bill; and here dismissing the facts of the case, he would address himself as shortly as he could to that subject which appeared to him, even if the facts were proved, to demand the most serious consideration. When this case was first brought before their Lordships, it was not stated to be a single adultery, committed with one man, but a series of adulteries committed three years ago, for there was no proof of any adulterous intercourse having taken place within that period. Instead of that a course of infamous licentious conduct, which reflected great scandal and dishonour upon the crown and the country, was alleged against her Majesty, and the inference of their Lordships was called for to preserve the morals of the country and the dignity of the throne. Their Lordships must then consider, whether on the single fact of the polacre, standing on suspicion and suspicion only, such a case as that stated in the preamble of the bill had been made out; and then they must come to an accurate knowledge of what the case really was, on which they were now called to pass this Bill of Pains and Penalties. In the first place, they must recollect, that no fact had been proved which applied to the last three years; no suspicion was attached to the Queen's character after those perjured and abandoned witnesses (words which were not too harsh to be applied to them) had quitted her service; so that even if they had proof of some of the facts that were spoken to, not one of them could have subjected the criminal party to the penalties of high treason under the statute, even if the crime had been committed in England. But still it was said that her Majesty's conduct had brought dishonour and disgrace on the crown and on the character of the country, where was this proved? He would maintain that there was no such thing to be found in proof, but the direct contrary. With respect to Bergami, he perhaps was elevated in an improper and suspicious manner; but he was elevated as many other persons had been, by the power of a great Princess; and what appeared during the whole three years when this adulterous intercourse was supposed to be going on? and what occurred in the three subsequent years, with reference to which no charge had been brought? They had it in evidence from no less than ten or twelve witnesses, all above exception, that at different periods, while they were in the service of her Royal Highness, they saw nothing improper in Bergami's conduct towards her, or any thing that proved he was unworthy of his situation. But, said his Noble Friend, part of his conduct smelled of the

shop: he lighted Sir William Gell down stairs; and when at Pesmo, he was familiar with Mr. Keppell Craven's valet. Those circumstances were in his mind honourable instead of degrading to his character. What did they prove? They showed that this man, when by unusual, and, if their Lordships pleased, by undeserved favour, had risen from his former situation, he did not throw aside the recollection of what was due to those who had known him in that station. To Sir William Gell, perhaps, he owed some personal obligation, which he was willing gratefully to acknowledge by his assiduous attentions. So far the evidence of Bergami's conduct was in his favour. In the first place, there was no proof of any conduct on the part of Bergami which brought disgrace or dishonour on the Queen, or on this kingdom. In the next place, what facts appeared in evidence did not tend to bring scandal and dishonour on the country; but, on the contrary, so far was the Queen from being, on his account, treated as an outcast from the country, that at Munich she was received with every honour by the King of Bavaria, and Bergami with her: that at Turin she was received with every honour by the King of Sardinia, and Bergami with her: that at Carlsruhe she was received with every honour by the Grand Duke of Baden, and Bergami with her. Here he could not refrain from offering some remarks on the evidence which the mention of Carlsruhe suggested to him. He did not think the evidence of Kress, if uncontradicted, was sufficiently brought home to the Queen. The stains mentioned were never sufficiently connected with the bed of Bergami; nor was the bed at all connected with the Queen. The cloak, too, of which a noble Lord had taken so much notice, had never been proved to have been the Queen's. But the stains spoken to at Naples and at Carlsruhe were at least proof that the circumstance of the state of the linens had not escaped the activity of the prosecutors, and that it was not from unwillingness or delicacy that they abstained from giving evidence of that sort. When, then, he looked at the absence of proof of this kind—and this he put to the noble Lord opposite—when for the whole period during which her Majesty slept in the tent on board the polacre, she was proved to have her clothes on, and De Mont had the care of her linens; and when there was not a tittle of evidence of this kind produced, he put it to the noble Lord, whether it was not demonstrably proved that adulterous intercourse had not taken place on that occasion. (*Hear, hear.*) When for the whole period of three years, and especially on board the polacre, their Lordships found, in addition to the publicity of her Majesty's conduct, to the total want of mystery on all occasions, and to the situation of difficulty and danger in

which the Queen was placed; when to these considerations their Lordships added the absence of all circumstances of the nature he had alluded to, he would ask whether it did not lead their minds to this as the legitimate conclusion, not only that there was no proof of her Majesty's guilt, but that there was proof of her innocence. Having made these observations, he would now go back again as to the manners of Bergami. Bergami had not only been received with the Queen at the courts of Bavaria, Baden, and Sardinia, but also at Rome. At Rome her Majesty had been received with suitable distinction, and Bergami with her. At every court where she presented herself and him, she was received with honour, except where she was met by the hostile and active interference of her prosecutors. (*Hear, hear.*) No disgrace or dishonour then was brought on the Queen by Bergami, or by the Queen on this country, of such a nature as to make it necessary to pass this bill. Here then he might stop and say that this bill ought not to go to a second reading. But this bill was also to be viewed as a measure of policy and expediency. If this measure had come before their Lordships as an impeachment from the House of Commons, then they would consider it only in the character of judges, and laying their hands on their hearts they would pronounce her Majesty guilty, or not guilty; and in doing so, in pronouncing as judges upon the guilt or innocence of a party impeached, he would say with the noble and learned Lord on the woolsack, "Be just, fear not." But in acting upon that maxim, the interests of justice would require from their Lordships, on the facts of this case, he thought, not a verdict of guilty. But how much more was a verdict of guilty unwarranted when they viewed this as a measure of policy and expediency, as a Bill of Pains and Penalties? It was not his habit, his temper, or his disposition, to call upon their Lordships to desist from a necessary act from fear or apprehension. For proof of this he could appeal to the whole course of his public life. But they were legislating in this case for the public interests, and, legislating for the public interests, what could they consider of more importance than the tendency and necessary effects of passing this bill? (*Hear, hear.*) That there were improper feelings excited, and excited by improper means, he did not deny. He lamented and reprobated many things that were done. He had, on a former occasion, expressed his regret and disapprobation that her Majesty had written such a letter to the King. He had no hesitation now in expressing regret and disapprobation at the answers to addresses to her Majesty. (*Hear, hear.*) The Queen was ill advised in publishing such answers, and none could blame them more than he did; but they were not, therefore,

to pass the bill. If her Majesty, in circumstances of peculiar difficulty, and to which she could not have been accustomed, had suffered her name to be connected with such writings, their Lordships were not, therefore, to sit under the influence of her conduct in that respect, to find her guilty of other and quite different conduct. But their Lordships mistook the state of the public mind if they supposed that the feeling which prevailed throughout the country was the effect of such means as he had adverted to. A Noble and Learned Lord on the cross bench (*Redoubt*) had denied that there was any general feeling in the country against the bill. He would ask that Noble Lord, whom he had seen, and whom he had heard, what he had seen, or what he had heard, that could have authorized the Noble and Learned Lord to make this denial? (*Hear, hear.*) From what was done, from one end of the country to the other, the reverse was manifest. What was done, not by the mob, not by the rabble, as a Noble Lord had thought to proper to characterise a part of the people—and he could not but lament that such terms should ever fall from any of their Lordships, terms which only irritated and insulted, (*hear,*) which served only to widen the breach between their Lordships and the people, (*hear,*) and which tended to deprive the people of their natural and legitimate support. (*Hear.*) He wished such expressions were never used in that house; but all farmers, artisans, and tradesmen, all wise and honest men in the country, were decidedly against this bill. This consideration deserved the attention of their Lordships, and, in passing this law, it formed an important ground on which to rest their judgment. It had been said from the bar, and he fully concurred in thinking, that the authority of any decision of their Lordships must rest on the public respect, the public esteem and confidence with which it was received. (*Hear.*) Considering this as an undeniable position, and viewing all the facts and considerations of this question, what situation were their Lordships now in? They were to give their judgment on the facts of the case as now before them—facts, suspicious if they would, and not amounting to a proof of guilt: if this was the feeling of their Lordships, if this was the feeling of the country, he conjured their Lordships not to go to the second reading. The other house were not to affect the opinions or conduct of their Lordships, but it was political wisdom to contemplate the consequences of the ultimate rejection of the bill after they should have passed it. If their Lordships found that persons of the greatest weight and consideration in the country, who usually supported ministers, were opposed to the bill; if the second reading was to be carried by those who brought the bill into the house, it was not for him to counsel ministers in the con-

scientious discharge of their duty: but if the trial were in any other court in the land, they would be excluded from the province of judges as interested persons; the support they gave to the measure was a matter of most serious consideration, and to use their power in carrying it through Parliament was the most hazardous step that ever could be taken; if the bill should be carried through that house by a majority of persons of that description, and those connected with them; and if to those were added persons who had not attended the whole case, (*hear, hear, hear,*) more especially who had been absent from the defence, (*hear, hear,*) but who came down to vote for a bill of pains and penalties against the Queen, without giving any attention or consideration to the circumstances which explained her conduct; if their Lordships considered the bill carried through that house by such a majority, and, in addition, considered the feeling which pervaded the most important classes of the community, he would ask them, what effect such considerations would have on the House of Commons; and whether, if the bill passed this house, there was any reasonable expectation of its passing the other house? A division of the two houses on this question was to be avoided as the most inauspicious. It was not a mere division of opinion or judgment; it was a resolution of this House to degrade and render infamous the Queen of the kingdom, while the House of Commons rejected such a proposal at once. Or if the other house should receive the bill, the consequence would be most hazardous. They had seen that in this house, with only 200 members, and with every disposition to do their duty, there was the greatest difficulty in preserving the dignity and decorum that were necessary. How would it be then in the other house? How long, too, would this miserable case, which occupied their Lordships so long, be in the other house? All public business, all questions of the most essential importance to the welfare of the country, must be suspended; all the evidence of this case must be repeated there, and again circulated over the kingdom. If the honour of this country was of so much importance as to require this bill, what must all Europe think of the honour of parliament in hearing, sifting, and entertaining details such as were before their Lordships, and must, if they passed this bill, go before the other house of parliament? But what if they should be months, perhaps years, longer before the House of Commons? But that was the least of the difficulties with which they had to contend. Here he had to complain of very unfair and very improper means used to influence the proceedings in that house. He had heard the opinions of judges quoted, as if they had said that if they were addressing a jury upon the evidence before their Lordships, they would have di-

rected them to find a verdict of guilty. He was sure none could have heard such an opinion from any of the judges of the land; but the use of such means of influence he reprobated. He had also room to be generally stated and believed, that if the second reading were carried, the bill might then be got rid of. He was sure the Noble Earl opposite could be no party to such a compromise. He was sure that it would be a less evil to pass the bill than to reject it after the second reading. If the second reading was agreed to, the whole mischief was done. (*hear.*) The Noble Earl had stated on a former occasion, that alterations might be made in the committee; but if the second reading was carried, infamy, as far as this house could do so, was affixed on the character of the Queen for ever. The Noble and Learned Lord on the woolsack had stated that the preamble might be altered after the second reading. The preamble was to be altered! This, he supposed, was one of the advantages of this mode of proceeding. In an impeachment, or any other constitutional mode of trial, if the accused was found not guilty, there was an end to all further prosecution. But the advantage of this proceeding by bill of Pains and Penalties was, that, having failed in the proof, they were to alter the preamble. If this was to be done, it was impossible to deny the Queen another hearing. The bill might be altered: it might be mitigated; he did not know what might be called a mitigation, but the Queen and her advisers might not think it a mitigation. The clause of the bill which was to have the effect of divorce was proposed to be expunged. If he were a supporter of the bill, no power on earth would persuade him to expunge that clause. If that clause were expunged, the bill, as he had said before, would not only degrade the Queen but would degrade the King also. He could not conceive a greater contradiction in language, than that a woman, degraded from being Queen for scandalous conduct, should be the wife of the King. (*Hear, hear.*) If the second reading was carried, he would take no part in opposing it in the committee, or on the third reading. His conduct might be regulated by circumstances, but the inclination of his mind at present was, that if the second reading was carried, the mischief was done, and the Bill should be passed by that House. If the second reading should be carried, would any of the difficulties be removed? What were they to do next? To throw out the Bill, or the other House to throw it out? Still the Queen retained all her rights and prerogatives, all her honours and immunities, and after a Bill had been read a second time, stamping on her character charges of the grossest nature. This would only increase the difficulties. The only effect would be to afford some protection to ministers, by exposing that House to



all the disgrace and infamy which the passing of such a Bill on such evidence would infallibly occasion. (*Hear, hear*) In giving this his view of the case before their Lordships, and his conviction of the course which justice and policy presented, he discharged his duty. (*Hear, hear.*) He hoped he had not pressed any thing improper into the observations he had offered. (*Hear, hear.*) He was anxious to impress upon their Lordships the conviction which he felt, that if the illustrious person accused was to remain Queen, any slander or stigma ought on no consideration to be fixed upon her. That there was no pretence for degrading her Majesty he had felt and had endeavoured to show to their Lordships, first from the proof brought forward at their bar, and next from every consideration of policy and expediency. He (Earl Grey) had lived through extraordinary times, big with events that found no parallel in the history of the world. In the course of those events he had been much engaged in political discussion; and all he could say of his own labours was, that it had been his endeavour, as far as human infirmity would permit, to act with a free and impartial uprightness. The attainment of power had never been the principle by which he was governed; if it had been, he, perhaps, should not so long have been excluded from office. He had been, notwithstanding, and still was, the object of much reproach; but he had uniformly endeavoured to resist the undue extension of the power of the crown, without invading its undoubted rights. The prerogatives of the crown were not given merely for its own splendour, but for the protection of its subjects, who had as deep an interest as the King himself in their continuance and preservation. Many national calamities might be the result of this measure—misery and danger were now impending over the country; but after what he had now said, he could retire with a sound spirit and an untroubled conscience, and spend his remaining years—and few they necessarily must be—in the confident hope that he should leave to his children the reputation, the character, and the example of an honest man. To preserve these had been the leading motive for his conduct on the pre-ent measure, and the opinion he had declared had been formed with great anxiety, after much consideration, and, if he knew himself, without the operation of a bias in either direction. He fairly avowed, that in the outset his prejudices and his feelings were unfavourable to the Queen: he did think it possible that a case would be made out that would compel him to vote, however reluctantly, in support of the bill; but as it now stood, viewing it first as a question of guilt or innocence, and, next, as matter of political expediency, he was bound to declare that he could never lay down his head in

tranquillity in future if he did not to its most resist its progress. He must therefore give the only vote he could reconcile to his honour and his judgment; and laying his hand upon his heart, with the deepest sense of the solemnity of the occasion, conscientiously and fearlessly, before God, pronounced—Not Guilty.

The EARL of LIVERPOOL commenced by concurring in the two distinct considerations of this subject noticed by the Noble Earl, which might lead to very different conclusions. The great question was, undoubtedly, whether the Queen was or was not guilty of the imputed charges; but the expediency of the measure, in a legislative point of view, ought also, he admitted, not to be forgotten. Though he was perfectly aware, as had been stated yesterday, that this was the only course in which the House could proceed, he could not but regret that such a course was necessary, because it necessarily mixed two considerations of an opposite nature, and must unavoidably leave the decision of the House uncertain, whether it had been made upon the guilt or innocence of the Queen, or only upon the expediency or inexpediency of passing the measure. Approaching the subject under these difficulties, he must, in the first place, say, that in his opinion the point at present before the House was this—whether the substantial parts of it had been so established as to induce the House to read the Bill a second time? The Noble Earl who last spoke had alluded to some supposed understanding as to what might be the conduct of Noble Lords if the Bill were sent to a Committee. Of such an understanding he (the Earl of Liverpool) knew nothing; and to it he was no party. (*Hear.*) It would be for the House, after the second reading, to determine whether the preamble had been proved wholly or in part; and the particular enactments the Bill should contain was a subsequent matter of deliberation. In this stage of the proceeding he put out of view all considerations of expediency: and he would state why. Did he undervalue those considerations? By no means; but the proper time for giving weight to them had been when the subject was debated on the 19th August. The question then was, whether the Bill should be read a second time at all—whether counsel should be called in to support and to dispute the Bill? Since that date 40 or 50 days had been occupied in the hearing of witnesses; the advocates for the Queen had joined issue on the facts; and, under these circumstances, the House owed it to itself, to the Queen, and to the country, to come to a decision upon the facts as they appeared upon the minutes. However their Lordships might before have given the question the go-by, they had now entered upon and concluded the inquiry; and every principle of justice demanded that they should declare

their opinion as to the result. With regard to the allegations of the preamble touched upon by the Noble Earl towards the close of his speech, he must say it was quite a new doctrine to be told that it was not competent to the house to decide against such of the allegations as had not been established. In a case the best supported in the world, some minor—say, some important circumstances, might not be proved; and in ordinary cases, in our ordinary courts, it was every day's practice for a jury to find a verdict upon certain counts of an indictment, and not upon others. In an impeachment the house had an unquestionable right to confirm certain articles, and to reject others: sometimes, indeed, the practice had been to find only some parts of the articles, and to throw out the rest. The preamble therefore, must stand on its own grounds, and it was open to the house not to aggravate it certainly, but to mitigate it in any way it might think advisable. Here he wished to admit more distinctly, that whatever any Noble Lord might think of all the allegations, no person ought to vote, and he desired that no person would vote for, the second reading, who did not believe that the adulterous intercourse had been proved by sufficient and satisfactory evidence. (*Cheers.*) To this evidence he now wished to draw the attention of the House. The Noble Earl who had just taken his seat had remarked upon the difference between the proof and the allegations of the preamble, and had made a personal appeal to him (Lord Liverpool), whether, if he had thought the evidence would have turned out so defective, he would have introduced the measure? Upon this point he might, perhaps, appeal to authorities of which the Noble Earl would not think lightly regarding the sentiments he (the Earl of Liverpool) had expressed before this proceeding had been commenced; he had then said that two different modes might be pursued—either doing what the Attorney-General had done, producing the whole of the evidence; or in the second place, resting the bill upon a narrower and shorter case: upon the latter he had thought it possible that the bill might be more usefully and advantageously supported. Be this as it might, he was now perfectly ready to discuss this question on the evidence as it stood, and in the outset he was quite willing to admit that there was a great mass of contradictory testimony: but he would ask any man at all acquainted with judicial proceedings whether there had ever been a great case, in which the interests and passions of men were embarked, where the evidence was not a mass of contradiction? It had been so in the Douglas, the Anglesea cases, and in many others of a criminal nature; and the reason was this—that, without perhaps any intention to commit deliberate perjury, the witnesses on both sides be-

came partisans. Such had been the fact here; and, while upon this point, he was quite willing to allow that the benefit of any doubt from this circumstance ought to be given to the accused. If in the course of his argument, like his Noble Friends on the woolsack and on the cross bench (Lauderdale), he rejected a great deal of the testimony, it was not because he disbelieved it, but because he was ready to give her Majesty the advantage of all hesitation arising from contradiction. He was ready to put the fate of the measure upon this—that it should depend only upon the uncontradicted facts: if he could not show that it was founded upon uncontroverted and uncontradicted facts, he would consent to give up the bill altogether. (*Hear, hear.*) It had been urged by the Noble Earl that a charge of this sort ought to be proved by witnesses uncontaminated in character and respectable in situation—that they should not even be liable to suspicion. But might it not be impossible to adduce such evidence, although guilt was undeniable? One Noble Lord from the gallery (Harewood) had wished that the proofs had been given by English witnesses; so did he; but if the Princess of Wales went abroad among Italians, and surrounded herself by Italians, never seeing one English soul, how was it possible so to establish the case? In the same way, if she shut herself up from the higher ranks of society, and took into her service none but persons of the lowest stations and characters, it was a sort of insult to the understanding to require that respectable and uncontaminated witnesses should be produced at the bar. Certainly it was a reason for examining the testimony with more suspicion, but not for rejecting it, when the case admitted of no other. The facts on the part of the accusation had been established by servants of her Majesty, who had either been dismissed or had quitted her employment. Unquestionably they were the natural testimony of such transactions, as from those whom she still retained, even under the supposition of guilt, no crimination could be expected: but there was this curious circumstance, to which attention should be directed—that the evidence for the charges being given by servants either discarded or who had quitted, the answer should have come from those who remained in the household of her Majesty. What had been the fact? Had any such answer been given? With the exception of Lieut. Hownam, of all the persons who lived with the Queen at the period to which the preamble referred, and who continued with her now, not one had been called whose testimony was at all material. (*Cheers.*) Under such circumstances, the defence would have had this amazing advantage, because discarded servants, as witnesses, must always be looked upon with a degree of suspicion, while confidence would

all the disgrace and infamy which the passing of such a Bill on such evidence would infallibly occasion. (*Hear, hear*) In giving this his view of the case before their Lordships, and his conviction of the course which justice and policy presented, he discharged his duty. (*Hear, hear*.) He hoped he had not pressed any thing improper into the observations he had offered. (*Hear, hear*.) He was anxious to impress upon their Lordships the conviction which he felt, that if the illustrious person accused was to remain Queen, any slander or stigma ought on no consideration to be fixed upon her. That there was no pretence for degrading her Majesty he had felt and had endeavoured to show to their Lordships, first from the proof brought forward at their bar, and next from every consideration of policy and expediency. He (Earl Grey) had lived through extraordinary times, big with events that found no parallel in the history of the world. In the course of those events he had been much engaged in political discussion; and all he could say of his own labours was, that it had been his endeavour, as far as human infirmity would permit, to act with a free and impartial uprightness. The attainment of power had never been the principle by which he was governed; if it had been, he, perhaps, should not so long have been excluded from office. He had been, notwithstanding, and still was, the object of much reproach; but he had uniformly endeavoured to resist the undue extension of the power of the crown, without invading its undoubted rights. The prerogatives of the crown were not given merely for its own splendour, but for the protection of its subjects, who had as deep an interest as the King himself in their continuance and preservation. Many national calamities might be the result of this measure—misery and danger were now impending over the country; but after what he had now said, he could retire with a sound spirit and an untroubled conscience, and spend his remaining years—and few they necessarily must be—in the confident hope that he should leave to his children the reputation, the character, and the example of an honest man. To preserve these had been the leading motive for his conduct on the pre-ent measure, and the opinion he had declared had been formed with great anxiety, after much consideration, and, if he knew himself, without the operation of a bias in either direction. He fairly avowed, that in the outset his prejudices and his feelings were unfavourable to the Queen: he did think it possible that a case would be made out that would compel him to vote, however reluctantly, in support of the bill; but as it now stood, viewing it first as a question of guilt or innocence, and, next, as matter of political expediency, he was bound to declare that he could never lay down his head in

tranquillity in future if he did not to its utmost resist its progress. He must therefore give the only vote he could reconcile to his honour and his judgment; and laying his hand upon his heart, with the deepest sense of the solemnity of the occasion, conscientiously and fearlessly, before God, pronounce—Not Guilty.

The EARL of LIVERPOOL commenced by concurring in the two distinct considerations of this subject noticed by the Noble Earl, which might lead to very different conclusions. The great question was, undoubtedly, whether the Queen was or was not guilty of the imputed charges; but the expediency of the measure, in a legislative point of view, ought also, he admitted, not to be forgotten. Though he was perfectly aware, as had been stated yesterday, that this was the only course in which the House could proceed, he could not but regret that such a course was necessary, because it necessarily mixed two considerations of an opposite nature, and must unavoidably leave the decision of the House uncertain, whether it had been made upon the guilt or innocence of the Queen, or only upon the expediency or inexpediency of passing the measure. Approaching the subject under those difficulties, he must, in the first place, say, that in his opinion the point at present before the House was this—whether the substantial parts of it had been so established as to induce the House to read the Bill a second time? The Noble Earl who last spoke had alluded to some supposed understanding as to what might be the conduct of Noble Lords if the Bill were sent to a Committee: Of such an understanding he (the Earl of Liverpool) knew nothing; and to it he was no party. (*hear*.) It would be for the House, after the second reading, to determine whether the preamble had been proved wholly or in part; and the particular enactments the Bill should contain was a subsequent matter of deliberation. In this stage of the proceeding he put out of view all considerations of expediency; and he would state why. Did he undervalue those considerations? By no means; but the proper time for giving weight to them had been when the subject was debated on the 19th August. The question then was, whether the Bill should be read a second time at all—whether counsel should be called in to support and to dispute the Bill? Since that date 40 or 50 days had been occupied in the hearing of witnesses; the advocates for the Queen had joined issue on the facts; and, under these circumstances, the House owed it to itself, to the Queen, and to the country, to come to a decision upon the facts as they appeared upon the minutes. However their Lordships might before have given the question the go-by, they had now entered upon and concluded their inquiry; and every principle of justice demanded that they should declare

of it till she returned from the long voyage ! Looking at the introduction of the relations of Bergami, a man might easily be elevated from a low to a high rank, and the rest of his family might be entertained, but they would be in relative situations. Here the Baron was chamberlain, and his sister was a lady of honour ; but their brother was a footman, their nephew a stable-boy, and their sister a maid, whose duty, it was important to observe, was to take care of the linen. In modern times, and in creditable society, it was impossible that such an arrangement should exist ; and it only showed that the Princess was fencing herself round by the family of her favourite. Having been made a Baron, an estate was purchased for him, which was called, after him, the Villa Bergami ; and, finally, the anniversary of St. Bartholomew was kept as a festival. The institution of the order of knighthood was an important circumstance, as connected with the journey to the Holy Land. The bare fact, he admitted, would not be worth much notice ; but the other circumstances connected with Bergami gave it great value in estimating the guilt or innocence of the Queen. Bergami, Baron Franchini and a Knight of Malta, was made Grand Master, and all his issue, male as well as female, were to succeed to that title from generation to generation for ever. W. Austin, on the other hand, the *protégé* of the Queen, had only the rank of a knight, with succession to his legitimate children. From this might be gathered the religious and moral character of the institution. Did not these facts prove not a suspicious attachment, but he would say, an infatuated passion ? He could almost say that he desired no man to vote for the bill who did not believe that when the Princess went on board the *polacre* she entertained for Bergami an infatuated passion. (*Cheers.*) The Queen's Attorney General had used an ingenious argument when he said that De Mont's letters, with her *double entendres*, were wholly incomprehensible, but, without them, clear, intelligible, and coherent. The same might be said of the Queen's conduct : with the explanation attempted, it was absurd and incongruous, but, under the supposition of this ungovernable attachment, her strangest actions were easily understood. The infatuation of passion only could reconcile them, and he defied the wit of man to account for them in any other way. (*Hear.*) What he wished to impress upon the House was, the conduct and character of the whole transaction. Let the House take the case upon all its different bearings, and see if they could come to any other conclusion. And having now adverted to the extraordinary elevation of Bergami, and to the equally extraordinary introduction of his family ; to the close nature of the connexion, and to the constant

habit of a familiar intercourse, he came to the next ingredient always asked for in cases of adultery—the constant course and succession of opportunities. He found it undisputed, it could not be disputed, that, wherever the parties went, the apartment of Bergami and the Princess were as contiguous as circumstances would permit. No danger could be apprehended at the times to which he had alluded ; no pretence of danger could avail. Besides, if it were necessary for her Majesty always to have a man near her, why was Bergami always to be that man ? Why could not some other individual share that avocation with him ? Let the House remember the evidence of the witness De Mont ; let them recollect her Majesty's practice of following De Mont to her chamber, and locking the doors whenever the apartment of that witness communicated with her own. Whatever suspicion, if any, existed as to the testimony of De Mont, the same suspicion would attach, at least in an equal degree, to a great portion of the evidence on the other side ; to Lieutenant Hownam's evidence it would particularly attach, because it was impossible, even with every disposition to allow for that gentleman's feeling towards his mistress, it was impossible to think of his conversation with Captain Briggs, whether the advice in question, had or had not been given to her Majesty was a matter of no consequence, without perceiving that his evidence was quite as suspicious as that either of De Mont or of Majocchi. For his part he had little doubt that all the witnesses were inclined to give a colour to their evidence favourable to the side for which they might appear ; and when once that inclination was admitted, it was difficult perhaps to say where a witness might be corruptly perjured ; but if the evidence of De Mont, and that of Hownam, were tried by the degree of confirmation received from other witnesses, there would be no comparison between the one and the other. Not only was the evidence of De Mont, upon all points admitting confirmation, more fully confirmed than that of Lieutenant Hownam ; but, what was of far greater consequence, it stood uncontradicted upon points as to which contradiction was easy. He could not too forcibly address that point to the consideration of the House ; mere confirmation might be the result of combination, but non-contradiction was a species of confirmation subject to no such objection. He had shown, his Lordship continued, the general nature of the transaction ; he had pointed out conduct which could only be ascribed to one cause ; and the House had evidence before them as to the constant opportunities wilfully created. He admitted to the Princess the 'vantage ground of not having misconducted herself on board the *Leviathan* ; he admitted that she had borne to expose herself in the presence of



British officers; he did not quote the *Leviathan* with any view of proving that adultery had been committed on board that vessel: in fact, whatever were the arrangements for so short a voyage, for so trifling an interval, was a matter of no consequence; but when he reminded the House that, on board the *Leviathan*, Capt. Briggs had made those arrangements for her Majesty's convenience which a sense of propriety would naturally suggest, and that those arrangements had been altered by her, her maids removed, and Bergami brought near to her, he meant to ask not whether she intended to commit the crime of adultery during the voyage, but whether those alterations were not the effect of habit; whether they were not part of a regular system. The question deserved to be taken up before it came to the conduct on board the polacre. The question, as he looked at it, went back; it went back to all the circumstances on which he had already dwelt; it went back to the strange elevation of the man, to the introduction of his family, to his dining at the table of the Princess, even in his dress as a courier; to his being made chamberlain, knight of Malta, baron; to his constant, his eternal, presence with her; to his everlasting attendance upon every occasion; and, above all, to the constant opportunity of contiguous apartments. He would go back to all those circumstances; and he would ask any man, not perhaps whether there was judicial proof, but whether there was not such evidence as amounted to moral conviction of adultery committed before the Princess went on board the polacre? As nearly as could be, there was judicial proof; there was almost as much proof as an ecclesiastical court would desire; but at all events there was moral conviction, that the connexion between the parties could only be of one nature. It had been said by the Learned Counsel on her Majesty's behalf, "we bring her on board the polacre without taint and without suspicion." He had marked the care with which that point had been laboured; the Learned Counsel had felt that the polacre was a strong obstacle in their path; and had proposed to get over it by carrying an unsuspected character up to the very point; but he (Lord Liverpool) denied that absence of taint; he alleged, not only that there was suspicion before that period, but that there was a mortal certainty of guilt. There were two other circumstances most worthy of attention. All the English, upon some account or other, left the service of the Princess. He was ready to give credit to those individuals whose departure had been occasioned by particular circumstances; but it was curious that those particular circumstances should have occurred at that particular time; and it did happen sometimes that persons wishing, for any reason, to do any act, imposed even upon their own understandings so far as to set up some other very

plausible reason for performing that act. It should be remembered, however, that the House had not heard the evidence of all the individuals: they had heard Lady Charles Lindsay, who had been with the Princess 2 days; but Lady Charlotte Campbell, who had been with her one month, and Lady Elizabeth Forbes, who could have spoken to a term of 4 months, had not been produced. The Hon. Mr. Burrell was in the same situation. There was another circumstance extremely curious. The old servant, Sicard, her Majesty's old and faithful servant, he was sent home when she went to Naples. Why so sent home? The man's answer upon that point was worth notice. He was asked, "Why did you leave the Princess?" He answered, "The Princess left me." At Naples then Sicard departed. At Venice Dr. Holland left her Majesty. Dr. Holland was to have left her at all events, but his departure was hastened. (*Cries of no, no.*) The Noble Earl believed that he was stating the evidence correctly; nothing could be further from an intention than to misrepresent any part. Just at that time, he believed, her Majesty had intimated to Dr. Holland that he might as well take a tour of 6 weeks in Switzerland: let the two circumstances be looked at together. Just at the time when she sent home her old and faithful servant upon a day which might have been done just as well by any other person, just at that time, just at the crisis of the transaction before the House she induced Dr. Holland to go upon a tour to Switzerland. The Noble Earl was here interrupted by loud cries of "*adjourn, adjourn.*" If there had been any chance of terminating the business during the day, his Lordship would have requested a little farther the indulgence of the House; but, as such prospect presented itself, he would not continue to trespass upon their attention.

Adjourned at twenty minutes after four o'clock.

## House of Lords.

SATURDAY, NOVEMBER 4, 1820.

The House having met at the usual hour, prayers were read by the Bishop of Bristol, and the list of Peers called over. The attendance of the Marquis of Hertford was excused on the ground of indisposition.

LORD HOLLAND hoped that their Lordships would determine not to separate again without coming to a vote on the second reading, unless the debate should be prolonged considerably beyond the ordinary hour of adjournment.

The EARL of LAUDERDALE, on the contrary, rose to express his hope that the House would continue the practice which had hitherto been followed of adjourning at four

o'clock. In common political cases, if the course of adjourning from day to day at a fixed hour were adopted, he could foresee great inconvenience and even mischief from it, for it would greatly impede public business: but the present measure was so peculiar and important, that he could not agree to alter the course which had been pursued. In a proceeding of this solemn nature, it would be disgraceful to the House not to give every man an opportunity to state the conscientious motives on which his vote might be grounded. If their Lordships were induced to put abruptly an end to the debate, on account of their bodily fatigue, or from any circumstances of personal convenience, they would give just cause for prejudice in the public mind against the character of that House.

LORD HOLLAND had been misunderstood by the Noble Earl. He had not proposed to preclude any Peer from speaking who might wish to address the House. All that he suggested was, that the House should not adjourn at four o'clock, if it appeared that, without prolonging the debate to an inconvenient hour, they could that day come to a vote.

LORD ERSKINE would be glad to take an early opportunity to address their Lordships, but the few observations he had to add to what he had already stated would not occupy the time of the House more than half an hour.

The LORD-CHANCELLOR said a few words, which were not heard below the bar, after which the order of the day was moved.

The EARL of LIVERPOOL rose and resumed his speech.—He had now to proceed in stating those considerations which induced him to come to a decision on the question that this bill be read a second time. In doing this he must again refer to the topics to which he had called their Lordships' attention yesterday. He conceived that, upon the view he had then taken, two circumstances were established. First, that beyond all doubt, if any conclusion at all was to be drawn from circumstantial evidence, a criminal intention had been manifested on the part of the Princess of Wales towards Bergami, while still a footman. Whether that criminal intention was then followed up to completion or not he did not pretend to determine, though, if De Mont and Majochi were to be believed, it had. But as the testimony of these witnesses was contested, and as the fact of completion at that time must therefore be considered as not proved, nor capable of proof, he should not dwell upon it. He must maintain that there was full proof that a clear criminal intention, and means of completing that intention, existed at the period while Bergami was still a footman. He went still further, and considered as a second circumstance clearly established,

that, relative to what had passed up to the period of her Royal Highness's arrival at Augusta, and while she was there in the month of April, 1816, there was such a mass of evidence as amounted in his mind to a moral proof of the act of adultery. He believed that evidence much less strong was received in the ecclesiastical courts as proof of that fact: but, whether that was so or not, their Lordships would find, upon an examination of the evidence, that there was complete circumstantial proof of the guilt of the parties before their arrival at Augusta. Before he proceeded to notice the case at Catania, which came next in the course of observation, he must say a few words respecting what had passed on board the *Clorinde*, in consequence of the conduct of Capt. Pechell in refusing to sit at the same table with Bergami, and the impression that refusal appeared to have made on the mind of her Royal Highness. He thought that, if there had been no consciousness of guilt on the part of her Royal Highness, no sense of the degrading connexion she had formed, it was naturally to be expected that she would have shown an immediate resentment at the refusal. Instead of leaving a doubt in Capt. Pechell's mind whether she would yield to his objection or not, why did she not repel it with indignation? Why did she not send home a remonstrance to the government, complaining of Capt. Pechell having refused to receive at his table a man who was then in the situation of her chamberlain? But there was another view of this subject which was still more important. Captain Pechell's conduct was certainly a hint to her Royal Highness, and, if all had been pure and innocent in her familiarity with Bergami, it must have occurred to her mind that respectable persons had some suspicions on the subject—suspicions which ought to have made her, on every principle of duty and delicacy, to conduct herself towards Bergami in future as to be above all suspicion. He would now come to the case at Catania: it had been said that it rested on the evidence of De Mont only; but if their Lordships looked at her Royal Highness's suite at this time, they would find that there were only three persons who could possibly be acquainted with such a circumstance—Countess Oldi, De Mont, and her sister Bron; two of these might have been produced for the Queen. De Mont was produced, and their Lordships must take her evidence for what it was worth. She had described others to be present. Why were they not called? The circumstance of their not being produced ought never to be lost sight of by their Lordships. It was a strong proof of the truth of De Mont's evidence. De Mont proves the adultery at Naples, at Genoa, and at Gen. Pino's; but, admitting that her character was so damaged that her evidence was not to be received to the fullest extent,

yet in the case of Ciliaia it was admissible on the principle, that if untrue it might have been contradicted. De Mont is corroborated by Lieut. Hownam in every material point. But if she were not corroborated, must be a contradiction before the facts were denied. Whatever their Lordships might think of the evidence of De Mont or Majocchi generally, where they were liable to any contradiction, and that contradiction had not been given, their testimony was not testimony to be rejected. Now, what was De Mont's story? That Bergami's bedroom was first in a building across the court-yard; but, on being ill, his bed was brought into the house, to a room near the Princess, and which had been occupied by the Countess Oldi. In the night De Mont heard the child crying in the Princess's room, and the Countess Oldi endeavouring to quiet it. In the morning she saw her Royal Highness come from Bergami's room with pillows under her arm. De Mont says she does not recollect whether her sister Bron was in the room with herself, or not, and that might be a reason for not calling her; but the Countess Oldi was in the Queen's room; she was to have been called—she is in town, and might have been called to contradict it. Their Lordships could not disregard this circumstance; for, as the Countess Oldi was not called, they must consider the fact of adultery, proved on the evidence of De Mont. He came now to that part of the case which by many persons who considered the most important—namely, the circumstances which took place on board the *polacre*. These were certainly in some respects most material, especially as they had been met by no contradiction. He would put out of consideration the not calling of Carlini; and facts admitted or uncontradicted were sufficient. He should state, in a very few words, what they were:—Bergami's bed was first brought into the dining-room. It was singular that, wherever any accommodation was made, it was always for Bergami. One would have thought that the Princess would have chosen a naval officer to be near her; he could certainly have given her the best information as to the state of the weather, and such things as she was said to be anxious to know; but it was found in every case, that it was Bergami, and Bergami only, who was selected to be near her. It had been clearly proved, that at Ann, and other places, the Princess slept alone in the inner tent with Bergami; and that, on board of the *polacre*, she slept under the tent or awning with Bergami during the whole voyage, and this without the slightest necessity, or pretence of necessity. He was ready to make every allowance for the situation of persons on ship board, but still it was proved that, for thirty nights, her Royal Highness and Bergami slept under the same tent, without any excuse whatever to justify it. It had been said there was no mys-

tery in it; but, if he was to judge from what had passed at the bar of their Lordships' House, there was much mystery. The Learned Counsel for the Queen (Mr. Brougham) in opening the defence of her Majesty, which he did with much ability, never even noticed the tent, although, from the questions that had been put by their Lordships in the examination of witnesses, he must have been aware that very great importance had been attached to it. It had been mentioned by Mr. Williams, who reasoned upon it as if it were true. Upon the summing up by Mr. Denman it was set at rest, thought that he admitted the fact; but next day, in the continuation of the speech, that Learned Counsel appeared to him to throw doubt upon it. Let their Lordships consider for a moment the evidence of Flynn, who had stated that he had made all the arrangements in the cabins for the accommodation of the suite, and, when pushed in his cross-examination, declared that he knew not where Bergami slept, although he knew where every other person connected with her Royal Highness was accommodated. By his account the ship was at one time so small, and at another so large, no correct information could be obtained. (*Hear, hear.*) Was it possible that a person so long in the ship as Flynn had been could not be able to say where a person who was so closely connected with her Royal Highness slept? and was he to be believed, when, on being pressed, he at last said that he did not know whether Bergami slept under the tent or not? Could it then be stated by any body that there was no mystery in this part of the case? He would not bear hard upon Lieut. Hownam, for he felt for the situation in which that witness was placed, from the obligations he was under to the Queen; but he must say that, as to the fact of Bergami sleeping in the tent, the admission he had made on that subject was reluctantly extorted from Lieutenant Hownam; it did not come freely and naturally from him, and he could not help thinking that that gentleman had a stronger knowledge of the circumstances relative to the sleeping in the tent than he had expressed. Thus much he had thought it necessary to say on the question of mystery. Now, was there any necessity for this arrangement of Bergami sleeping in the tent? He would confidently affirm there was not the remotest necessity for Bergami and the Princess of Wales passing any one of those nights under the tent. What were the circumstances? It was during the hot weather; at a time that the season was fine and the weather generally calm, when her Royal Highness, partly to avoid the inconveniences below, and partly to enjoy the fine weather, desired to sleep on deck; but the vessel was completely in her Royal Highness's power. It must be recollected that it was not a passage-vessel, filled with strangers under the control of the cap-

tain, but hired expressly for her Royal Highness's own use and accommodation, not subject to the inconveniencies of a passage-vessel from Helvoetsluis to Harwich. Would then any woman of virtue and modesty, or who wished to preserve the appearance of such, have, under similar circumstances made the same arrangement? But there she had her lady in waiting and her two chamberlains. What prevented her Royal Highness from having the former with her, or where was the difficulty of either Lieutenant Hownam or Flynn having his cot on deck for her protection? In fact, the latter had said that he did sleep some nights on deck, and there was no reason why an arrangement should not have been made between him and Hownam for the purpose of one or the other always sleeping every night on deck. But he would still go further, and ask, why might not Hownam or Flynn have slept under the tent? He did not say that such a thing ought to have been done by any male person; but if there was an absolute necessity that some man should be there, why did not either Hownam or Flynn bring a cot under the tent? Surely one of those persons was the most proper; for, in the case of a sudden squall, or shipping a sea, Bergami, being a landsman, could be of no service. Hownam, from the relation in which he stood to her Royal Highness, appeared to be the person to whom her Royal Highness, in such a case, would have naturally looked for assistance. But of what use could Bergami have been, more than Mariette Bron or De Mont? Indeed, as a Noble Lord had already observed, the very circumstance of Bergami's size rendered him less fit to be employed in protecting her Majesty in a storm than any other individual on board. He must therefore insist that there was not the slightest reason for Bergami sleeping, as he appeared to have done, in the tent at sea; and still less for his being placed in the same situation in a tent on land. It had been said that the hatchway which led into the tent was always open. He was ready to admit that the hatchway was generally open, but that was a circumstance of no importance. The contrary, however, appeared from some of the evidence. It was, however, to be inferred, from what Lieutenant Hownam had stated, that a person might have been in the dining-room without knowing whether or not the tent was closed. It had also been said that persons slept in the cabin or dining-room, but it did not appear that any one slept regularly there. Majocchi had sworn to one occasion; but, according to the evidence of others, the bed in the cabin was generally found rolled up. But it had been said that the tent was a place very unlikely to be chosen for the commission of the crime imputed to her Royal Highness. Now he would ask their Lordships whether, in a calm sea and fine weather,

in that tent, such as it had been described, closed down, and fastened to the deck by ring-bolts, there ever was a place in the world in which the crime might have been perpetrated with more facility? He would ask any man who knew what female delicacy was, if it were possible that any woman could pass 30 nights together with a man within a closed tent, without a moral conviction that the crime of adultery been then committed, or that it had been so often committed before that the desire of concealment was altogether gone? But the conclusion from the tent at Aum was still longer. There the parties were enclosed within the same tent, whilst in an outer tent slept Carlini and Theodore. Now if Bergami was considered so much better as a protector, why was he not placed in the outer tent? Was it not in human nature that some circumstances must occur which could not have been endured—he he would not say by a woman of any delicacy, but by one gross in the extreme—without there had been the most intimate connexion between the parties? He could not see any difference between a tent and a room, and he would appeal to those who had spent their lives in camps, if there existed any difficulties in the one case which did not exist in the other. But then it was said that when her Royal Highness entered the tent at Aum, it was after travelling, and when she was worn out with fatigue and exhaustion. That told both ways. For if there were any circumstances in which a delicate woman would least desire the presence of a male observer, it must be under those so described. The circumstances of the scenes in the tent on board the *polacre* and in the tent at Aum he considered as not only affording a moral conviction, but amounting to judicial proof of the adulterous intercourse. He had stated the case of the *polacre* to their Lordships, without reference to any of the preliminary circumstances, because he was ready to assert that, even if her Royal Highness and Bergami had come on board perfectly guiltless, there was sufficient evidence as to what occurred there to establish the crime of adultery. But was this the case? Were there no previous circumstances to establish guilt? He had stated yesterday that there existed, on the part of her Royal Highness for Bergami, not an attachment merely, but an infatuated passion: he now repeated that declaration, and he asked any man to lay his hand upon his heart, and looking to all that had passed, to say whether he did not believe that her Royal Highness was passionately in love with Bergami? (*hear, hear.*) He would not say that this circumstance was in itself a proof of the guilt charged; but when it was found that persons so situated created the opportunities of being frequently together in private, and this was to be discovered by taking the small as well as the great circumstance of the case; when it



was found that they had slept under the same tent for 30 or 40 nights, he must come to the conclusion that a criminal intercourse had taken place, or that all the decisions in our law-books, all the judgments in cases of divorces, were a code of as great cruelty and injustice as he had ever read of. (*hear.*) He had now gone through those parts of the case which referred to the tent at Aum, and to what took place on board the polacre; and those two cases, he would assert, gave such demonstrative proofs of guilt, as left not a single doubt on his mind. Before he concluded his remarks on the voyage, he wished to make a few remarks on what occurred at Syracuse. Their Lordships would recollect that he yesterday mentioned the celebration of Bergami's birth-day at the Villa d'Este. The same ceremony was observed at Syracuse: the name-day of her Royal Highness's chamberlain was again observed with every mark of rejoicing; the ship was illuminated, money was distributed amongst the sailors, and her Royal Highness walked up and down arm in arm with Bergami, whilst the sailors shouted "Long live the Princess; long live the Baron Bergami." Would this circumstance have been believed, if it had not been proved in evidence that her Royal Highness, the wife of the Prince of Wales, the Regent of these realms, could have acted thus with Bergami, in the relation of wife and husband; that she could have celebrated with so much pomp and splendour the birth-day of a man, who, only twelve months before, was engaged as her courier, and waited behind her chair? (*hear.*) If those facts did not prove a degradation unparalleled in conduct and manners, he was ignorant of any thing in the history of human nature which could show it. He would now offer a few words as to what took place at Carlsruhe; and though, from the circumstances which attended this part, and the conflicting testimony respecting it, it was a part on which, singly, he would not rest his vote, yet he thought that, upon a fair balance of evidence, their Lordships would find that even there the case was fully proved. They had seen the witness Barbara Kress at their bar; and he would say that a more fair, natural, and ingenuous account he had not heard, from any witness than that which she gave. (*Hear, hear.*) There was also this circumstance attending her story—that she had told it immediately after the occurrence of the facts which she stated. It showed that it was not one made up for the occasion. She was in cross-examination questioned as to where she had lived previously, and to several circumstances of her former life, all of which she answered in a fair and natural manner. An agent for the Queen was despatched, and he would say very properly, to Carlsruhe, to make inquiries on the subject; and, from the fact that he had not been able to adduce any thing which could affect her

character, he (Lord Liverpool) must infer that it was unimpeachable; and, as he had before observed, that her evidence was pure, fair, and ingenuous. (*Hear, hear.*) In the opening case for the Queen it was said that every part of the time which her Royal Highness spent at Carlsruhe would be accounted for, and with that view Vassali was questioned. Now what had Kress stated? That she had seen her Royal Highness and Bergami together on the evening of the second day: but this tallied exactly with Vassali's account, that Bergami was taken ill at court on the second evening, and returned to the inn, accompanied by his sister. Vassali, however, to refute the evidence of Kress, stated that he was with her Royal Highness the whole of the time, and of course that she could not have been with Bergami as described on that evening. Now, without dwelling on the peculiar acuteness of Vassali's memory on this point (for it was natural that a man might remember some circumstances well, without at all recollecting others,) he (Lord Liverpool) could not see any thing so particular in the visit to Carlsruhe which should fix it stronger in his mind than what took place at Munich, which he (Vassali) professed not to remember so well. Indeed, he (Lord Liverpool) thought there were stronger circumstances for remembering what occurred at Munich than at Carlsruhe, for the former case was that of a visit to a King, the latter only a visit to a Duke. However, so it was that Vassali had sworn to being in company with her Royal Highness the whole of that evening, and nothing of what Kress swore could have occurred. He did not mean to impute any improper motives to Vassali in this part of the case, but he put it to common sense whether it was natural to suppose, that the Princess could have spent the whole day at Court, come back to the inn, and return again to Court, without having occasion to retire to her room; and, if their Lordships believed that she had so retired, they had a confirmation of the testimony of the evidence of Barbara Kress. Looking at the case in this point of view, and finding that the character of Kress was wholly unimpeached, he would maintain that there was no judge who, charging a jury on such evidence, would not point out this part of the evidence as affording a strong proof of guilt. He could not see how the testimony of Baron d'Ende could affect the evidence of Kress, or how he could possess any knowledge of the facts to which she deposed; at the same time he was willing to make every possible allowance for his absence, which he regretted as much as any man; and as the evidence of Kress was a single testimony, he would not rest upon this part of the case. He next came to what took place at Scharnitz. As this part of the evidence now stood it was different from the statement of the Attorney-General for the bill, and from that

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amount to a proof that adultery had taken place at Scharnitz; but, as he had before said, it clearly proved that it was not the protection of a man which her Royal Highness desired, but the company of Bergami. (*hear, hear.*) He would not trouble their Lordships with any remarks upon what occurred at Trieste. That was met by certain contradictions which induced him not to dwell upon it. He would now offer a few observations upon the indecent familiarities which were alleged to have taken place at the Barona and the Villa d'Este; and, in looking to this part of the case, he would throw out of his consideration every thing alleged for the bill which was of a doubtful character. He would allow no such evidence to have any weight with him in the vote which he was about to give. Some stress had been laid upon the circumstance of Sacchi's change of name, but that, he maintained, ought not to weigh against his testimony. The assumption of another name was suggested to him by some persons on his journey from Paris hither, on the ground that (as we understood the Noble Lord) some troubles might exist in this country which would render it unsafe for him to be known by his own name. This circumstance, then, he did not think by any means sufficient to cast a doubt upon his testimony. He would admit that his evidence was at variance with that given by Carlo Forti; but it should also be borne in mind, that Carlo Forti himself was not supported in his general evidence by any other witness for the defence, and that he had been mistaken wholly as to the place where he was hired. It further appeared that in Sacchi's evidence he was not so far mistaken as was alleged in his account of the blinds of the carriage, for the Italian word for curtain and spring-blind was the same. (Here Lord Grey made an observation across the table in a low tone, to which the Earl of Liverpool replied, but both were inaudible below the bar.) However, the Noble Lord continued, as the evidence of Sacchi had a doubt cast upon it, he was willing that it should be thrown out of the case altogether. Leaving then that evidence entirely out of the case, there was the evidence of several others who were not in the slightest degree impeached; and here he could not help observing that if her Majesty laboured under disadvantages at the commencement of the case, she had afterwards advantages greater than were ever before possessed by any individual under accusation. After the close of the case against her, she was allowed a delay, sufficient not only to get her own witnesses ready, but to examine into the previous life and character of all those who had appeared in support of the bill. When this delay was allowed, he had heard the opinions of professional men, that it was such as was calculated to defeat

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the ends of justice, inasmuch as it would give an opportunity for what was called the manufacturing of evidence. Be that, however, as it might, her Majesty's counsel had an opportunity of inquiring into the character of all the witnesses examined. She had her agents at Milan for that purpose, and active agents, no doubt, whose business it was to inquire into the previous life and situations of all the witnesses, and to contradict them at their Lordships' bar, if contradiction could be given; and in two instances, indeed, their Lordships had seen that attempts of that kind were made. Notwithstanding this, however, there were not fewer than seven witnesses who swore to indecent familiarities, and whose evidence and character were unimpeached. Four of them were not asked whether they had ever communicated the circumstances they had sworn to before; three others were asked that, and one of them said that he had mentioned to the factor's son, who might have been called but who was not called, to contradict him, if the account he gave was false. Then he would ask whether their Lordships were to throw the testimony of these seven unimpeached witnesses, swearing positively to strong facts, out of the case? Was their evidence such as would not weigh in any court of justice? Let them look at the testimony of Giuseppe Galli, and at that of Finetti. The former was not a common servant, but the principal waiter at the inn, and he swore to indecent familiarities, some of which took place in the presence of ten other persons, none of whom were called to contradict him. Would their Lordships then, he again asked, throw such a body of uncontradicted evidence out of the case? If the case rested solely upon this testimony, it would be with pain that he could bring his mind to vote upon it; but, though the case did not so rest, it was strongly supported by this evidence; and it should be recollected that these witnesses swore not to facts which previous circumstances had rendered improbable, but to matters which were rendered probable by those very circumstances: it was, on that account, to be duly weighed in their Lordships' consideration. He now returned to the conduct of her Royal Highness at the Villa d'Este; and here he should say that it was with pain that he could bring himself to remark on any amusement in which her Royal Highness was pleased to indulge; but it did appear in evidence that her Royal Highness performed on a theatre, not before her equals, or associated with them, but in company with her servants, and before 200 spectators, strangers to her. He would ask was this the dignified conduct that became her Royal Highness, as wife of the Prince Regent of England? (*Hear, hear.*) Was it not, on the contrary, degrading to a person in her exalted situation? It was not at the

Villa d'Este alone that such exhibitions were made, for similar scenes took place at the Barona. He was aware that contradictory testimony existed as to the character of those amusements: but, taking the evidence of one of the Queen's witnesses there, it was a proof that a strong disinclination was evinced on the part of certain persons to be present at them. Vassali was asked whether the wife of Tomasio was present, and he answered, yes, but not his daughter. He would now offer one or two observations as to the exclusion of Bergami's wife from any participation in her Royal Highness's favour, which had been so largely lavished on him and his other relatives. A Noble Earl on the other side had said that it was not an uncommon thing, in hiring servants, to have a reluctance to take a man and wife into the same service, and that, where the husband was hired, there was frequently an objection to taking the wife. This he did not mean to deny; but his objection here was not to the exclusion of Bergami's wife, but to the admission of every member of Bergami's family into her Royal Highness's service except her. She alone, of almost all his relatives, was the only one who was not admitted to the service, or to the residence of the Princess; and when, on one occasion, she happened to be at the Barona, on the arrival of her Royal Highness she was obliged to run out of the way as fast as she could. (*Hear, and a laugh.*) This circumstance was the more remarkable, as nearly all of Bergami's family, high and low, had found their way into the service of the Princess. The brother had got employment in one situation, the sister in another; his mother was in the house, his nephew was in the stable and his cousin was also engaged. He did not object to the wife not being in the same employment with the husband, but surely it could be no sin that she should sometimes be allowed to visit the place where her husband was; and yet in no instance had it been known that she was a visitant at any of the places where her husband was engaged. Their Lordships then had it in evidence that this singular familiarity had taken place at Naples: that it continued and was increased at Genoa to an extraordinary degree—that the relatives of Bergami were introduced in numbers into the service of her Royal Highness—that the sister, the Countess Oldi, was also engaged in that mysterious manner, which, in any court of justice, would give rise to just suspicion—that afterwards Bergami was admitted to dine at the table of her Royal Highness in his courier's dress, and that within a few months honours and titles were bestowed upon him; he was made a knight of Malta, and created a baron, and subsequently an estate was purchased for his use: it was also in evidence that opportunities were created for the commission of the crime of adultery. What, is

asked, could be the inference of their Lordships from this circumstance? What more could they require to come to a conclusion of guilt? It was said that De Mont might have proved more. How could she? She herself had satisfactorily accounted for it, for she said that it was the usual practice of her Royal Highness, when she dismissed her attendants at night, to follow them to the door, and lock them out. When their Lordships looked to these circumstances, and when they recurred to what took place at Syracuse on the celebration of Bergami's birth-day, could they doubt of the kind of intimacy which subsisted between the parties? This was further confirmed by what De Mont mentioned in her letter, where she thanked her Royal Highness and the Baron for their kindness and attention to her. He asked their Lordships what conclusion could they draw from those instances of familiarity? and when to these they joined the fact of her Royal Highness having slept under the tent with this man for 30, 20, or even 10 nights, for the number was immaterial, he asked again what inference could they draw from those facts, or by what human means could they account for them unless by the violent passion entertained by her Royal Highness for Bergami? a passion which created every opportunity of gratifying itself; and those opportunities having been created, he maintained that the inference in law and in fact was, that the crime must have been committed. (*Hear.*) In this view of the case he would say, If in a jury-box and on his oath before God, that, if ever there was a case of adulterous intercourse clearly and fully established, it was that now before their Lordships. (*Hear.*) He now came to offer a few remarks on another part of the case, which perhaps belonged more properly to another stage of the Bill. First, it was objected that this was a Bill of Pains and Penalties: this was, he admitted, a bad name; but what was the nature of the present proceeding? Look at it in its effects. Was it worse in its consequences than any of those divorce bills which their Lordships were in the constant habit of passing? It might be that in those bills the accused party had certain advantages; but of this he would speak hereafter. But he would maintain that there was nothing in the present Bill which would not affect any private individual brought before their Lordships in an ordinary divorce case. Supposing the case of the wife of one of their Lordships, or of any of their ancestors, had she unfortunately become the object of a bill of divorce, would she not have been as degraded, as deprived of all her rights, privileges, and prerogatives—would she not become as dishonoured and disgraced as the Queen could be in the present case? Oh but, it was said, "in such case there would be a different decision—a previous decision of

the ecclesiastical courts. He said, not necessarily: their Lordships had passed bills without the interference of the ecclesiastical courts. He would admit that the decision of the ecclesiastical courts, as a general rule, was a good one where it could be had; but it could not be had in the present instance, and therefore it was not essential. Their Lordships were also told, that in an ordinary divorce case, the party accused would have the right of recrimination. That right, he contended, would be of no advantage in the present instance. This was not an ordinary case. It was not the case of a private individual. Independently of her character of a wife, her Majesty had to support her character as Queen. Her situation was a public one, and she had taken it with all the public duties and responsibilities attached to it; and she must have known that she was liable to all the severe punishments inflicted on adultery in her situation. He said, then, that the principle of the present Bill was not more severe upon her Majesty than it would be upon any private individual in any ordinary case. If the guilt of her Majesty was satisfactorily proved, he did not see any thing harsh, any thing cruel, any thing unconstitutional, any thing contrary to the practice of parliament, in passing the bill now before the House. There was nothing in it different from ordinary bills of divorce, except that in some instances those bills were visited upon individuals who were not the aggressors, and who possessed not the power of resisting, upon persons who could not command the extensive influence of high rank or of great popularity. He now came to another objection to the Bill. A Noble Friend of his had, without entering into the question of guilt or innocence, contended that the Bill was inexpedient. In the observations he (Lord Liverpool) should make upon this part of the case, he would address himself solely to those Noble Lords who thought with him that her Majesty's guilt was proved, for every Noble Lord who thought her Majesty innocent, or that her guilt was not sufficiently established, was bound, under all circumstances, to vote against the Bill. But, he repeated, it was to those Noble Lords only who concurred with him in thinking her Majesty guilty, that he now addressed himself. He called upon them to look at the inconvenience which would ensue on the rejection of this measure, after the accusation had proceeded, and the parties had joined issue as to the facts:—would not a rejection of the Bill, if they believed her Majesty guilty, be a triumph of guilt under circumstances most fatal to the moral character of the country? (*hear, hear.*) He conjured them to reflect well on the consequences of such a proceeding in all their various bearings. Let them bear in mind that her Majesty could not retire from the bar

like a private individual, who might be acquitted from want of evidence, or some other cause, and who, after her trial would be again mixed up and lost sight of in the general mass of society: her Majesty would still be a Queen of this country, while in the opinion of many of their Lordships, her character remained tainted with crimes of the most heinous description, though the adultery might not be legally established. He remembered that a case which occurred a few years ago, of a criminal intercourse between a lady and her servant, occasioned no very inconsiderable sensation in the public, in consequence of the difference of rank between the parties. The crime was very naturally considered much aggravated, and the lady still more degraded by having descended to an intercourse with her own servant. How much more would not such a feeling prevail in the present case? Was there not a greater difference of rank between her Royal Highness and her courier? He did not wish to prejudice the cause of the Queen by any comparison; but, if their Lordships thought her guilty, it was impossible for them not to believe her degraded and debased, and therefore unfit to continue in the exalted rank, and enjoy the many high honours and dignities of Queen of these realms. (*hear, hear.*) Admitting that they were so situated that they must choose between opposite evils, he would contend that in such cases the straightforward course was most expedient. Whatever might be the inconvenience, if they believed the Queen to be guilty, they were bound to proceed with the bill. He had too much reliance on the good sense and just feelings of the people of this country to believe that the consequences of passing it would be fatal or injurious. The Noble Earl had adverted to the clamour which had been raised upon this subject, and to the public discontents which the measure would create. It was also very truly stated by counsel at the bar, that there were disaffected men who converted this subject into an instrument of their own seditious purposes. Undoubtedly every grievance, every public misfortune, in times like the present, would only serve to increase the exertions of those who entertained designs hostile to the constitution. He did not mean to prejudice the case of the Queen when he attributed such views to some of those who surrounded her; but would to God he could say that she was free from all participation in their acts! But, when he looked at most of the answers which had been returned to the addresses presented, he would ask any man whether a woman, conscious of innocence, would ever have offered, adopted, or authorized such answers? If really innocent, she would have abided by the sentiments expressed in her answer to the first address, in which she said that she came to vindicate her own character, and desired

that her cause might not be mixed up with any political question. (*Hear, hear.*) It was at least manifest, that she had since admitted persons about her, who advised and acted in a way the best calculated to produce an impression of her guilt. Far was it from his intention, however, to excite any prejudice against her on that account which should in the least interfere with the decision of this question. But, if their Lordships thought her guilty, and that, by refusing to pass this bill, they would enable guilt to triumph, then let not any base principle of fear prevent them from the discharge of their duty. (*Hear, hear.*) The Noble Earl (Grey) had made a personal allusion to him, with regard to his intention of voting on this occasion. It was a subject which had not escaped him, and he had therefore referred back to the conduct of persons who had held the same office which he now filled in former cases of a similar kind. It appeared, upon that reference, that they had never thought it inconsistent with their duty as ministers, or with their honour as peers, to vote upon such occasions. Was it, indeed, ever done in cases of impeachment? Upon this point he had only to refer their Lordships to a very recent instance—he meant to the impeachment of the father of his Noble Friend. The prosecution was carried on with the assistance of the Attorney and Solicitor-Generals, but the ministers of that day did not think themselves precluded from exercising their right as peers. (*Hear, hear.*) This was in substance a case of the same kind, involving a question of high public importance; and he would not, therefore, divest himself of his right as a Peer, or abstain from sanctioning with his vote, the opinions which he had felt it his duty to maintain. He should do so, conscious of his own integrity, with a firm reliance on the justice of his country, and with a persuasion that his conduct would not be misunderstood. It was his sincere hope that all would vote neither from fear, from influence, nor from faction, but from an opinion founded on the evidence alone. If they acted steadily on this principle, the world would in the end do them justice. There was the utmost confidence reposed in that high tribunal: but, like all others, they stood before the still higher tribunal of public opinion. If they gave an honest vote, the calm and deliberate result of the solemn inquiry in which they had been engaged, they might confidently look up to that tribunal for its approving judgment. Some allusions had been made to the part which the judges had taken in the course of this investigation. To himself it had been the source of great satisfaction that the trial had taken place in the presence of the judges of the land, and it gave him additional satisfaction to reflect that they were also present at the debates arising out of it. He had felt that their presence must operate

as a check upon himself, if he should be about to advance any thing erroneous, any thing in opposition to the principles of truth and justice. It was most satisfactory to him to consider that the whole of these proceedings had been open to their judgment, to the judgment of the profession of which they were the heads, and to the judgment of the public at large; and he would appeal to Him who alone knew the secrets of all hearts, and who could alone perhaps unravel all the mysteries of this case, whether his own conclusion was not true; or, if not true, whether it was not founded in integrity, in a disposition to temper justice with mercy, in a desire to inflict no punishment beyond what the necessity of the case required, and in a sense of what was equally due to the crown and to the country. (*Hear, hear.*)

LORD ARDEN then rose, and made several observations which were quite inaudible behind the bar: we understood his Lordship, however, to say afterwards, that he wished the bill to be withdrawn, and that the sense of the House might be taken on this question in some other way. He felt it to be a duty which he owed to his King to oppose the second reading of this bill: its rejection would relieve his Majesty from a certain degree of odium, and ministers themselves from a heavy weight of responsibility.

LORD FALMOUTH said he felt himself compelled by a sense of duty to trespass on the attention of the house, however unworthy in point of talents to occupy it, for a very short time. Yielding as he did in ability to many Noble Lords who had preceded him, he was as zealous as any of them in his wishes to do what was right. Although guilty or not guilty was at present the only question before them, he must take this opportunity of stating the strong objections which he entertained to the penal part of the bill,—he meant to the clause of divorce. If the second reading was pressed whilst this clause remained, he should most certainly feel himself under the necessity of opposing it. It would not satisfy him to be told that the omission of the clause might take place in the committee; he could not vote for the bill until that clause was expunged; and he hoped there was some mode of effecting it.—The Queen, if guilty, did not appear to him to have committed any offence against the state, nor to have forfeited the rights possessed by every other married woman. The statute by which the charge against the Queen might have amounted to high treason, had been alluded to, but it did not apply to this question. He considered the bill as it now stood, to be pregnant with evil and public mischief; and he knew that he spoke the sentiments of many other Noble Lords.—They, however, would act for themselves:

but he wished, for one, to be clearly understood that, if the difficulty of removing this clause was found to be insuperable, he must oppose the second reading.

The EARL of HARROWBY observed, that it was far from his intention to enter into any argument upon the clause in question at this stage in the progress of the bill.—If the Noble Lord found a difficulty in passing the other enacting clause whilst the clause of divorce was attached to it, he (Lord Harrowby) was precisely in the same situation. Although he certainly had concurred in introducing the bill in its present shape, yet, if it should be proposed in the committee to abandon the clause of the divorce, he should himself vote for its omission.

The EARL of LAUDERDALE declared that it was his intention to be heard in the committee against that clause.

LORD ELLENBOROUGH observed, that as one of those who had concurred with the Secret Committee in recommending a solemn inquiry—as one who had agreed that it would be best carried on in a legislative form, and that the mode of proceeding actually adopted was the most convenient—as one, also, who had supported the bill on its first reading, but who now thought it highly inexpedient and detrimental to the public interests that it should proceed any further—he felt a natural desire to state briefly the grounds of his present opinion. It had been said that no one ought to vote for the bill who did not think the Queen guilty; to which he would beg leave to add, that all who might vote against it did not think the Queen innocent. They had been exhorted to “be just, and fear not;” a maxim which he would amend by saying, “be politic as well as just.” He had understood a Noble Lord (Arden) to express a wish, either that the preamble should be greatly modified, or that the sense of the House should be expressed in some other way. If any change was to take place in the course which they were pursuing, the time and proper point for it had now arrived. This was the occasion for considering what would be most conducive to the ends of public justice, and most accordant with public expediency. He certainly had expected that the guilt charged would be proved by evidence so clear, so unsuspicious, so untainted, and so irresistible that no plain man could refuse to yield it implicit credit. He had expected that it would produce a material change in the opinion of the public, and had thought that the investigation, both in its progress and result, would harmonize with the national feeling. Whether it was necessary for him to state his own impression, on a review of all the evidence, he scarcely knew; but, if it were, he must avow that he could not declare the Queen innocent, and he was un-



willing to pronounce her guilty. At the same time it appeared to him, that in some respects guilt was clearly proved, and that several material allegations had been substantiated. Others were certainly not made out to his satisfaction, and he was unwilling to vote for a bill of this description if it rested at all upon suspicious testimony. His chief reluctance, however, to give any further support to this measure, arose from the strong and almost universal feeling which existed against it. This feeling, he was aware, sprung out of delusion! and if the whole inquiry should prove abortive, it would be the most disgraceful triumph of falsehood ever truth that the world had yet witnessed. He had always looked at this question as one of public morals and national character. The bill was intended to affix a mark of infamy, but what was the probable consequence if it passed? It would be regarded as an act of violence; it would not produce its effect, it would cause a re-action, and bring about a result directly opposite to those views with which alone it could be entertained. With these considerations he felt himself impelled by a sense of duty to vote against the second reading of the bill. But whilst he entertained this opinion, he should think it most inexpedient, he should think it a great desertion of duty on the part of that House if, after what they had learned of the Queen's conduct, they were to pass over it without censure. The Queen of England was a public character; she exercised high functions; he meant not that she was to advise or act in the administration of public affairs; but that she stood forth in the public view as a model and example of female conduct. All that was required of her was that she should be a correct model and example in this respect: and in this respect it was that the present Queen utterly failed. Every unprejudiced man who had heard the evidence, every man who had lived at all in the world, would admit that the Queen was one of the last women whom he would wish his wife to resemble—one of the last whom the father of a family would propose as an example to his daughters. It was obvious then, that she could not adequately perform the offices belonging to her station: but then the question assumed a new aspect, when it was considered that these functions were inherent in her as Queen, and when it was proposed to deprive her of them. To him it appeared clear that another course was open, and that none could be more constitutional than to address the King on the conduct of any high public functionary; none more natural than, in a case like this, to state in that address the substance of the evidence, which, in conformity with the Royal message, they had taken; and then to state their own conclusion, that the Queen's conduct had been derogatory to her high rank, inconsistent with the delicacy of female vir-

tue, and such as to cast an indelible suspicion on her honour and character. By this means the national manners and virtue might be preserved as effectually as by the bill itself. There was also a parliamentary mode of restraining the Queen in the exercise of her prerogatives, by limiting her allowance. He did think there was an absolute necessity, if they wished to pay due respect to female virtue, for visiting her with some censure. Female virtue was one of the great points of superiority which we enjoyed over other countries. It was of the highest importance in maintaining our superiority in other respects. What was the love of country but the love of home; and how could the love of home exist without domestic confidence? It was important to the national character not to suffer the Queen's conduct to pass without observation, not to suffer it to go forth to Europe that the fact of her sleeping for five weeks under the same tent with a menial servant created no suspicion in this country. He had heard of English Princesses, who likewise had their paramours—a Mortimer, a Leicester, or an Essex—men of high birth and distinguished qualities—men unlike in every particular to the base object about whom they had heard so much.

"Lust, thro' some certain strainer well refin'd,  
"Is gentle love, and charms all womankind."

But lust and love were indeed very different passions; and where was the love here? Love for the fellow-servant of Majochi! What could be his topics of conversation? Drawn, he must presume, from an experience gathered in the stable, and from the society, at best, of the upper servants. He must say that he viewed the Queen's conduct towards this man with unqualified and unutterable disgust. The reserve and distance usually observed between the different ranks of society were not unmeaning forms, but were as useful as they were natural and becoming; and therefore he could not allow the conduct of the Queen to pass, as far as her menial servant was concerned, without the expression of his opinion that it was infamous and degrading in the extreme. But, while he expressed that opinion, he must say a few words on the subject of the measure now before their Lordships. They were told that it was due to the Queen that they should say guilty or not guilty. If the Queen were innocent, she had a fair claim on them to pronounce a verdict of acquittal; but if guilty was it necessary or expedient to enforce from them a declaration of that guilt, in the manner now proposed? If the charges against the Queen, as stated in the report of the secret committee, and had been founded on indisputable evidence, then it would have been expedient to pass this bill; but he did not think that any such expediency existed, considering the circumstances under which

the evidence now appeared. Their Lordships should recollect that they were brought to this question, not whether this particular legislative measure should pass, but whether any legislative measure should be resorted to in this occasion? For his own part he thought, looking to the circumstances in which the country was placed, that they could not proceed to any legislative enactment. (*Hear, hear.*) He felt much surprised when he heard a modification of the bill spoken of. Modification was impossible. They might strike out one part of the bill; but, in effect, this would not be a modification. Could there be any modification of the divorce clause? or could their Lordships take from the Queen certain rights, privileges, and immunities, and leave her in the possession of others? Then, with regard to the preamble—it was to support the whole superstructure of divorce and degradation. But, strike away one part, and it was impossible that it could bear both; and then they at once came to a matter of enactment, which by this alteration of the preamble, could not be supported. Hitherto the conduct of the house had been viewed with suspicion. But, in this instance, they had reclaimed and sustained the high character which was justly due to them. He trusted there was not a man who had heard the evidence at their bar, and seen the manner in which this trial had been conducted, who would, if his life and honour were at stake, desire a more just and impartial tribunal than the House of Lords (*Hear*) Their Lordships had proceeded with calmness and dignity; the course they had taken had not been objected to by petitions; and the public had waited for their decision with the greatest tranquillity and confidence, being assured that their Lordships would deliver a sincere and well-founded opinion. But, although he admitted that there were occasions on which it was highly necessary for the general advantage that parliament should act contrary to what appeared to be the public opinion—although he thought the great use of parliament, and particularly of the House of Lords, was to correct public opinion, under peculiar circumstances, instead of being swayed by it—although he conceived they were not, on all occasions, to follow rather than to direct the public mind—still, granting this, he was of opinion that nothing was of so much importance to give strength and firmness to the state as that general coincidence of feeling between parliament and the country which imparted real health and vigour to the constitution. (*Hear*) How long, he asked, was this painful subject to be kept before the public? How long was public business to be neglected? How long were the functions of government to be suspended? How long were the basest passions of the worst of men to be allowed

their freest onset against all that was good and estimable in society? (*Hear, hear.*) If ministers demanded a justification for bringing this subject before the country, he would give it to them—not from favour, but from a sense of duty. He thought they were justified in acting as they had done, after considering the evidence that was laid before them. But, while he was ready to give them that justification, he would not give it in a manner which, if not absolutely fatal, would be most dangerous to the country. He knew of no mode in which it was possible to express the guilt or innocence of the Queen—he knew of no mode in which it was possible to express their opinion of the conduct of Ministers, so inconvenient and so unsatisfactory as by pressing the second reading of this bill. (*Hear, hear, hear.*) Was there any Noble Lord who really believed that this bill would ever become a law? He did not think there was. And, if that were the case, in what situation were their Lordships placed? They were asked, on moral conviction, and on judicial conviction, to proceed to the second reading of this bill, hostile as it was to the feeling of the country, severe in its operation, and scarcely justifiable under any circumstances—a measure not intended to effect its ostensible object; but merely to express an opinion, contrary to that of the people, and which might as well be expressed by an address to the throne. He had thus endeavoured shortly to explain the reasons which induced him, notwithstanding the votes he gave when the subject was first brought before the House, to object to proceeding any further with this measure. He felt more apprehension than he could express when he contemplated the circumstances that might arise if this Bill were pressed any further. Anxious as he was for the honour of that House—feeling as he did that its power was essentially necessary for preserving the balance of the constitution—considering the peculiar nature of this measure, which imperatively called on them to act in the spirit of justice and sound policy—mindful also of the circumstances that might flow from its enactment—looking to all these points, and being strongly actuated by them, he would undoubtedly give his vote against the second reading of this Bill. But he trusted the House would not separate without giving a very strong expression of their Lordships' feeling and opinion on the subject of the Queen's conduct, founded on the untouched part of the evidence—on that portion of it which was not suspected, and which no man could deny. This, he firmly believed, was the safest course, and the course, also, which was best also for the interest of public morals, because it was the most consistent with public opinion. (*hear, hear.*)

(At the conclusion of the Noble Lord's speech, some confusion prevailed in the

House and below the bar, when the Duke of Clarence leaning forward from the gallery, and significantly pointing with his finger, called out in a tone of emphasis and command—"Order below the bar.")

LORD ASHBURTON, said, unaccustomed as he was to address their Lordships, he must claim their indulgence while he delivered his sentiments on the important measure now before them. After all that had occurred, after all the evidence and argument that he had heard, there was not a syllable urged in defense of the Bill which satisfied his mind of its justice or expediency. Be the evidence, however, what it might, supposing it to be all that the Noble Earl (Liverpool) had stated it to be, still he was convinced that there were reasons which should induce their Lordships not to pass the Bill. This was an *ex post facto* bill, and that alone he humbly conceived, was of itself sufficient to cause it to be thrown out. There were four instances in the history of this country of the enactment of *ex post facto* laws, and they were uniformly condemned. That of the Earl of Strafford, in the reign of Charles I. which, if he did not greatly mistake, was ordered at the Restoration to be expunged—the case of the Earl of Clarendon which was repealed in the time of Charles II.—that of Dr. Atterbury, Bishop of Rochester, in the reign of George I.—and that of Sir J Fenwick. These cases were all held to be bad precedents; and he was astonished, considering the peculiar features of the present case, that they should have been followed. How stood the case? The Noble Earl opposite, and other persons who composed his Majesty's administration, with a full knowledge of the facts alleged against the Queen—with as great a knowledge of those facts as an accurate acquaintance with the nature of the evidence could possibly give—entered into a negotiation with her Majesty, offering her 50,000*l.* a year, on condition of her remaining abroad. Now, this being the case, it seemed to him that, though this bill, technically speaking, professed to deprive her Majesty of her privileges and immunities, on account of a series of misconduct, yet it did in fact, go to deprive her of those privileges and immunities, because she had exercised her undoubted right of coming to Great Britain.—The bill, in his opinion, was contrary to the known and recognised principles of the British constitution; because those who were to decide on it exercised a variety of discordant and anomalous functions. Their Lordships had lived in very troublesome times, when many examples had been set of a dangerous nature—they ought, therefore, to act with caution, and to take care that they did not add another example dangerous to the constitution by passing this bill, it might also be observed, as it at present stood (and he could only speak of it in that point of view),

they would do a great deal of injury to an illustrious personage (the Duke of York), whom he did not then see in his place. If the bill were passed, that illustrious personage would be thrown farther back from the succession, and deprived of rights which were as sacred as those of his Majesty.—The Noble Lord concluded by declaring that he would vote against the bill. [Much of what fell from the Noble Lord, particularly towards the latter end of his speech, was inaudible below the bar.]

Lord Erskine and Lord De Dunstanville rose at the same time, and the contest between the friends of the two Noble Peers as to which of them should have precedence occasioned considerable confusion.

The EARL of DARNLEY.—I rise to speak to the order of our proceeding.

A Peer.—I rose to speak to order before the Noble Earl.

The EARL of DARNLEY said, their Lordships knew that his Noble Friend (Lord Erskine) was labouring under severe indisposition. He had been several times on his legs, and he thought in courtesy, he ought to be heard. He would not appeal to the Noble Lord who had arisen at the same time with his Noble Friend, but he would leave it to the candour of the house to decide which of the Noble Lords should now be suffered to proceed. (*cries of move, move.*)

The EARL of DARNLEY.—I now move that Lord Erskine be heard. (*cheers.*)

The LORD CHANCELLOR said, it was for the house to decide which of the Noble Lords should be heard first. He merely rose for the purpose saying that it appeared to be understood amongst their Lordships, when his Noble and Learned Friend came into the house that morning, and stated his intention of addressing them, that they would permit his Noble and Learned Friend to express his sentiments at an early hour. (*Hear, hear.*)

LORD ERSKINE then rose, and said he could assure their Lordships that, in calling their attention to the bill now before them, he did not mean to occupy much of their time. He had yesterday run the risk of increasing his severe indisposition by coming down to the house to address their Lordships, just as his Noble Friend (Earl Grey) had commenced his admirable speech. What fell from his Noble Friend in the course of that speech, so distinguished by eloquence, and so remarkable for the knowledge and recollection which it displayed of all the facts on which the bill was founded, determined him, from that moment, not to trouble their Lordships by going through the evidence at length. Still, however, he felt it to be his duty, having formed an opinion as to the result of the evidence different from that which the Noble Earl (Lauderdale) who had spoken on a previous day entertained, to call their Lordships' atten-

tion to some parts of the evidence; and he would now endeavour, as well as he was able, to state the grounds on which his opinion was founded. He did not know how he could do this with so much effect as by going back to the pursuits of the earliest period of his life. He did not mean to act as a Counsel; but he would suppose that he was a judge, and he would sum up to their Lordships, looking upon them as a jury, in the same way as a Chief Justice would do in a Court of Law. In the outset he would call on them to recollect that there was a great difference between action and indictment, and, as they were bound to look at the case in the most favourable way, he would sum up as if it were an action for damages, and consider all the proof by which that action was sustained. Before he proceeded further, he would advert to an observation which had fallen from the Noble Earl (Lauderdale), and which would not come in with propriety in the address which, on such an occasion, he would deliver in a Court of Law. The Noble Earl had defended, in the strongest manner, the legality and admissibility of the evidence that had been adduced. On this point he would refer to the opinion of Hume the historian, who, speaking of the Earl of Strafford's case, said, "This is a species of treason discovered by the Commons, entirely new to the law, and to support which, they have invented a new kind of proof—that of accumulative or constructive evidence."

[Here there was an unusual bustle in the House, on the supposition which proved to be erroneous, that the Queen was entering, on account of the opening of the King's state door at the right of the throne.]

LORD ERSKINE continued.—Might he not ask their Lordships whether there ever was such an instance of the production of accumulative and constructive evidence as the present case displayed? Every thing proceeded on it. No one could say that there was any real proof of adultery—all was supported by inference. He would now proceed to address their Lordships, as if he were a judge in a court of law; and he was extremely glad to see a number of the Learned Judges present on this occasion. He was afraid, from the nature of the speech he was about to deliver, that he would not be able to attract their Lordships' attention. He could not give to his address the characteristic warmth of senatorial eloquence, because, as he assumed the character of a judge, he must speak coolly and dispassionately. This case was to be considered according to the analogies of common law. But, in the outset, he must observe that those analogies were grossly violated. How else could the grand jury who found the bill be admitted to act with the petit-jury, by whom the case was to

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be ultimately decided? He had no doubt that their Lordships felt all due delicacy, and dismissed all prejudice from their minds, on this occasion: but still they enjoyed a most extraordinary power—a power wholly at variance with their functions as jurors;—he adverted to the liberty which every Noble Lord possessed to deliver an able and eloquent speech, to endeavour to convince those about him that one party was guilty; and, having done so, to come forward and give his vote on the question. This was monstrous; it was the greatest disadvantage under which an accused party could labour. He would suppose this to be an action for adultery brought by some great peer. The matter into which they would have to inquire was, whether the defendant here accused was guilty of the crime of adultery, and whether she committed the act with a certain foreigner? The person implicated in the alleged crime was not, as had been said, a low and contemptible creature, but a man of undoubted talent, who had been in the service of a person of rank in the army, and who, from the whole of the evidence, appeared to have been a most attentive and well conducted individual. It was observed by the Noble Earl (Lauderdale) that Bergami was not a person who could claim the station of a gentleman—that he wanted the fascinating manners of a gentleman, and was only fit to act as the humble attendant of the lady who hired him. But did not this, if true, make against the Noble Earl's argument? He would ask which of the two persons—a gentleman, or a man; who, though not born a gentleman, possessed the fascinating manners of one, or a person devoid of either of those recommendations—was the more likely to attract the attention of a lady? Every person would say that the chances were decidedly in favour of the former. The defendant stated, as her case, that she had long been the victim of a conspiracy; that spies were employed abroad, and in this country to watch her; that even her life was not safe, and that Bergami had been employed to protect her. She had not been allowed to go into evidence of that conspiracy; but, nevertheless, much had been proved. The evidence so rejected ought, he conceived to have been admitted, because, as had been justly said, "if she could prove, by general evidence, the existence of a conspiracy, it would be a matter of great importance to the defence, the charge amounting to no more than suspicion." To repel general evidence would be to excite a suspicion that it was not meant to give every fair advantage to the accused before the jury were called on for their verdict. If general evidence of a conspiracy to defame and ruin an individual were not to be received unless it could be brought home to some particular persons, did it not inflict a severe hardship

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on the party who had suffered by that conspiracy? But, in this case, though general evidence was rejected, yet strong evidence in proof of the conspiracy was adduced. It was clear that the agents of Vilmarcati were employed to procure evidence—that he examined all the witnesses, and got up the case, facts which carried conviction to his mind. A circumstance was proved by one of the witnesses, nothing equal to which he ever recollected to have heard in any court of justice. The witness swore “that an offer was made to take up a note of his for 5,000 livres, if he would say that he knew something detrimental to the Queen. If he did so, there was a gentleman at Milan who would take upon him to pay the bill.” Was such a thing ever before known as this mode of satisfying the creditor of an unfortunate man? In the course of the defence four or five instances of corrupt offers were developed. They had even stolen the papers of her agents. With respect to the adultery said to have been committed at Naples, Louisa De Mont was called; and, to his astonishment, she had been recently described by a Noble Earl (Liverpool) as a witness that stood uncontradicted. This individual had been discharged from the service of the defendant, together with a person of the name of Sacchi, who had also given evidence. She had been discharged with him, with Rastelli, and with Majochi, all of whom had been brought forward as witnesses against their former mistress. Was De Mont really the uncontradicted witness that the Noble Earl had described? No; she had conducted herself in a manner altogether unexampled. After seeing all those scandalous transactions which she had stated in her evidence, she declared, under her own hand, that her Majesty was the best and most virtuous of women. (A Noble Lord here expressed his dissent.) He (Lord Erskine) requested the Noble Lord not to interrupt him before he was sure that what he stated was erroneous. De Mont expressly said, in her evidence, that she had never departed from the paths of virtue; and yet, knowing the improper life which her Majesty led, she wrote this letter to her sister, a girl of seventeen, desiring her not to marry, but to remain in the service of her Royal Mistress, who was the best and most virtuous of women. This witness (De Mont), who had never departed from the paths of virtue, was most anxious that her sister, a girl of 17 years of age, should remain under the protection of the best woman in the world. They were told, indeed, that those expressions were not to be relied on; but let their Lordships see what followed. De Mont was asked at their bar, whether she had ever made any declarations respecting the excellence of her Royal Highness’s character? She denied it, and stood out in asserting that she had never stated the Queen to be different

from what she had then sworn. She was confronted by a person who gave no evidence in the cause, Madame Martini. She was confronted with this lady, and Mad. Martini said that De Mont was in a passion when the Queen’s virtue was attacked; that she said it was all calumny; the Queen was surrounded with spies, and all were in a conspiracy against her. He put it then, whether a woman, who had sworn to all the disgusting acts which were given in evidence at their bar, could be believed when they found that she had made such declarations at the period when she had seen all those acts, according to her own oath? This woman’s testimony was, then, of no value. Unless the laws of England were subverted—unless all he recollected of law was a fiction—unless all his experience misled him—unless the experience of all the authorities, living or dead, which he had consulted was in error—De Mont was no witness at all. How was it possible to know whether she told truth at one time, when what she told was in contradiction to her own declarations at another time? Was he to be told that she was sworn at one time, but not at the other? Take, then, the whole of her sworn evidence together. This infamous witness, for so he was now entitled to call her, swore that the Queen returned early from the Opera, that the bed where she generally slept was unslept in that night, and that a large bed, in which Bergami slept, was disturbed, as if two slept in it. Every syllable of this was completely contradicted, and by witnesses who could not have been mistaken, and who were beyond the reach of suspicion. The Queen came home with Sir Wm. Gell, who attended upon her home at a very late hour, and was in waiting while she retired to the bed in which she always slept. The whole testimony of De Mont, to this very part of the case, was so cut down, so completely destroyed, that the charge of adultery was abandoned. Therefore, he repeated, it was not merely by contradiction from other witnesses, but by her own declarations, that she was rendered utterly unworthy of credit. Of this he would give an instance. He recollected a man, of the name of Underwood, being witness for the prosecution in a trial for a conspiracy in forging a will. This person had been a witness in support of the will alleged to have been forged. He had described the room in which the will was signed, the bed in which the testator lay, the Bible which lay on the table, the attendants by name. On this affidavit was the probate of the will founded. He (Lord Erskine), who, with one of the Learned Lords on the woolsack (Baron Garrow) was counsel for the defendant, objected upon the *voir dire*. He desired the paper to be read which described the room, the bed, and the attendants. He had then asked, “Mr. Underwood, do you come to

deny the truth of all these circumstances?" He said he did. He (Lord Erskine) objected to his evidence, well knowing that he would swear the direct contrary of what he had formerly sworn, with the same contempt of truth and disregard of the obligation of an oath which he professed to have formerly manifested. He put it to the Judge, whether it was admitted that, without that witness, the case must fail? The Judge said that he might be confirmed. "No," he had replied, "he cannot be confirmed, for he can give no evidence." Yet this witness, De Mont, was now dug up from the ruins of perjury and fabrication, to establish charges contradicted by her own statements. The Judge admitted Underwood's testimony, but no man living could compel him to vote in violation of all the principles of English justice, or to listen to evidence so self-contradicted. He hoped he should never again see such witnesses got up to support any cause. He and Mr. Baron Garrow knew they were safe on that occasion, for they knew the intelligence and integrity of an English Jury. He had exposed to that jury the admissions of the witness of having formerly stated one, two, three, four, as great a series as they pleased, of falsehoods and then confidently left his testimony in their hands. There was, then, an end of the testimony of this woman, De Mont. If she omitted any thing or asserted any thing so materially connected with her evidence, that she could not have omitted it or misrepresented it without damaging the testimony or destroying her whole evidence, they might reject entirely from their view the whole of her testimony. He agreed with what had been so admirably said by his Noble Friend of the testimony of Flynn, who, although his notes were absolutely unimportant to the case, and had nothing to do with his testimony, said the notes were his hand-writing when they really were not. The Noble Lord had said that on a witness who gave his testimony in that state of confusion he could not place that reliance which he wished to place on evidence given upon oath. But what then became of testimony deliberately and materially false and contradicted? As to the contradiction attempted against Hownam, what was it? Captain Briggs swore to a recollection of expressions which Mr. Hownam swore he did not recollect. Who could tell that there were not circumstances in that conversation so evanescent, so occasional, and so qualified, that they could not be remembered, and yet that would fully explain the whole? Capt Briggs only lately recalled parts of a conversation which seemed to bear upon a case of the highest interest to those who possessed power in this country. De Mont, therefore, must be abandoned. Majochi also must be abandoned. They were now abandoned, for it was admitted that no act of adultery was proved. Yet it was proved

again and again, if those witnesses were believed. Majochi swore that the Queen went through his room to Bergami's. At first he denied that there was any other passage; in the end he confessed there was another.—Who could believe that the Queen would have gone through that room for the purpose of criminal intercourse, when there was another communication? Yet, if he were believed, here was proof of an act of adultery. But adultery was admitted to be unproved; those two witnesses then were entirely gone. But every step they proceeded in this inquiry, it was in the shade of a dark cloud which hung over them; the evidence against the Queen, instead of being of that unsuspecting and fair kind which it ought to be in such a case, was all tainted; it appeared to be quite demonstrated that subornation had been committed, and that those very persons who had given their oaths and their evidence at the bar were tainted with that subornation. If the very first witness called was contradicted, not only as to the facts, but as to the character of his oath and credibility, suspicion and doubt must necessarily be increased as to the whole case. Sacchi was also perjured; Sacchi was also given up. In the evidence given by him respecting the journey to Sinigaglia, there was so much improbability, that not a word of it could be believed. It turned out that it was admitted to be a falsehood. The Noble Earl behind him (Lord Liverpool, for Lord Erskine spoke on that side of the House), had admitted that Sacchi's evidence could not be defended. On such a subject, then, the gravest which came to be tried in the memory of man, the three first witnesses were such as could not be supported even by those who brought them forward. Were they, then, as jury, in the same condition as if those witnesses had not been brought forward? Were they to give the same credit to Gargiulo and to Paturzo as if they had not been brought before them in company with Majochi, Sacchi, and De Mont? In any court of justice, if the three first witnesses were not only contradicted in small matters, but admitted to be perjured in facts of the most essential importance to the case, he would put it to the jury why they should be perjured if the cause was good?—(hear, hear.) He would wish to impress it on the jury, that if truth were the object—if the cause was founded in justice and truth, there could be no room for subornation and perjury—that adultery was the charge here, but that the charge was expunged—that witnesses swore to acts of adultery, but that they had made declarations so contrary to their testimony, that not only they were not to be believed, but the case was, from its very foundation, tainted, (hear, hear,) and that the witnesses could not be believed. The witnesses had been previously examined by per-

sans who were not called. Their Lordships were bound to have examined Mr. Browne. He ought to have been the first witness called. Mr. Powell ought to have been sworn at their bar to the manner in which he had examined witnesses in this case. The former depositions ought to have been produced, in order to afford a comparison with the testimony before the House. If such evidence was always required in cases where there was no contradiction, and no suspicion of subornation and perjury, how could it be shut out in such a case as this? (*hear.*) Vilmarcati ought to have been called. The whole of the case from its first origin to the bringing of it to that bar, ought to have been fully and satisfactorily disclosed, if they would have an honest jury to give a verdict upon its merits. But no disclosure was made but what was forced by accident, and what only confirmed distrust and suspicion. All the powers of Europe were found in array against one deserted, betrayed, and unprotected woman. Corruption and force collected evidence against her such as they had heard. Surely, surely an honest jury would never find a verdict against this woman upon such evidence. A Noble Lord had inferred a conclusion in favour of the Bill from her Majesty having having patiently borne Captain Pechell's refusal, and not having immediately asserted her authority. What! the Queen remonstrate? A poor, unhappy, deserted woman—a woman in such a situation, respecting her husband, that she could not show her face in any court—and in this view, if this were a case of common adultery, there was an end of it)—a woman hunted by spies and conspirators—a woman meeting, in every quarter, with branches of a mighty conspiracy to ruin her—such a woman remonstrate! How could the Noble Earl think of it? Of the manner in which the powers of Europe co-operated against her Majesty there was an instance in the case of the chambermaid at Carlsruhe. What could the counsel for the Queen know of this woman? They might prove her a prostitute. That would not impeach her testimony. She had not wished to give evidence; she was only the instrument in the hands of others. No evidence, then, would have been given, if the same conspiracy which kept back evidence on the other side had not forced it on this. What could be more clear than that the chamberlain of the Grand Duke of Baden had been kept back by the same power which forced the chambermaid at Carlsruhe to come forward? The chamberlain could give material evidence for the Queen. Why did his "heart beat" to come if he knew nothing important? He had been with the Queen at the Grand Duke's, he knew the very time and hour of her departure. Why, then, did his heart beat to give evidence in her favour? why feel sorrow at not coming, if he did not

feel that a conspiracy had fabricated falsehood against her which his evidence would in part destroy? As an honest jury they would rise with indignation and disgust the attempt to get their verdict in such a case against a woman first abandoned by all who were bound to protect and honour her, and then put on her trial upon calumnies that were invented or procured by those who had abandoned her. There was something in this that prevented him from preserving the calmness of a judge; he could not restrain his feelings; he felt too strongly to speak with calmness of perjury, subornation, conspiracy, and power, so directed against the dignity and honour of the Queen. The witnesses against her were then all destroyed. In a few months of one another they had been dismissed from her Majesty's service, and till the Queen came over to this country no surmise of their calumnies had reached their Lordships, though they had been dismissed 4 years before. When her Majesty came over to this country, then every engine was employed against her. A woman who had served her, and who had been dismissed for misconduct, was the witness to prove adultery against her; yet this very witness had after she had been dismissed, wished most anxiously to be received back again, and was most earnest to have her young sister retained in her Majesty's service. This witness was now abandoned, and the charge of adultery which she was to prove. He asked the Noble Earl how he could lay his hand on his heart, and believe one fact upon such evidence? He (Lord Erskine) never doubted that the case was to be all maintained or abandoned as a case of adultery. Why else was the evidence of the conduct at Naples made so prominent? Sir William Scott, one of the greatest and ablest of judges, when he found a case of adultery attempted to be proved by perjured witnesses, lost temper, for which he was so remarkable, at the flagrant insult upon fair understanding, as well as upon the solemnity of a court of justice. This case was not only supported by perjury, and perjury alone, but the character of that perjury proved the perfect innocence of her Majesty. The witnesses against her, when they left the service of the Queen, called her Majesty a pattern of every virtue. But if this *furor aterius*, which that infamous scoundrel, Sacchi, swore to, had existed—if any symptom of licentious conduct on the part of her Majesty had appeared amid all the spies that beset her, exposed to the machinations of a conspiracy of all the powers of Europe—would it not appear as evident and clear in the proof as any fact ever appeared in a court of justice? Yet, thus beset and exposed, she had done nothing, she had said nothing, which any man living could appeal to as clear ground of any inference against her. They could not invade any part of her

conduct. This absence of clear decisive evidence in such a case, would be conclusive with a jury, if he had not forgotten all the principles of justice, and all the principles which governed belief in an honest mind.—*Hear.*) The Noble Earl viewed this case and treated it as a responsible prosecutor.—He (Lord Erskine) viewed it in the situation of a judge. He knew that the feelings of the King were awakened on this subject. To the King he was under many, many obligations. During his past life nothing had been asked by him which his Majesty had not given, nor had he any reason to suppose that any change had taken place in his Majesty's disposition towards him. In preserving the King's life, or promoting any object connected with his happiness, he was ready to sacrifice his own life—to do any thing but violate his duty. His duty he would not violate: his principles he never, never would desert. (*loud cheers.*) He well recollected when he received the Order of the Thistle from the King's own hand—(Here his Lordship spoke so inaudibly that we cannot report his words. We understood him to say that it was right to entertain a jealousy of a public character, when he received public honours, while those in power acted on principles which he had opposed; but that he had never compromised his public principles for any consideration.) His Lordship adverted then to the evidence respecting the tent on deck, and the use of it in the day-time. There was no proof at all upon this subject. He had had as strong passions as any man, and had been as apt to indulge in gallantries; but he could confidently say that the circumstances detailed in evidence, in this part of the case, were unnatural—incredible—impossible. If he were that moment entering into eternity, he would lay his hand on his heart, and say he could not believe that the Queen, covered with all the filth of adultery which had been sworn to, had instituted an order in commemoration of having visited the tomb of the Saviour of mankind: this last fact had affected him very deeply, and most differently from the design of the evidence for the bill. Did it affect any one else so? (*Hear. hear.*) He spoke for himself. What interest had he in opposing the bill? All his feelings were the other way. He had never even seen this unfortunate Princess, before she appeared on her trial in that house, except once (we understood his Lordship to say) in passing through a public place. But he stated facts and arguments which would convince twelve honest men in every court of law in this country, if the laws of England were not subverted and forgotten. The law of this subject, as of every other, was founded in reason and in common sense. If they could bring the Queen's case under the presumptions he was going to state, he

would vote against her. When a woman leaves her own bed and goes to the bed of another man, if she can want nothing, but must have gone for a criminal purpose, the law presumes her guilty. If she have no connexion with him as a servant, and have no occasion to employ him as a servant, she is presumed guilty. If a man go into the room of a married woman, it is proof of adultery. Why? Because it would be naturally asked, for what other purpose did he go there? For what other purpose did she receive him? But there was no such presumption here. De Mont had indeed established that, if her evidence were not more than negatived, and converted into proof of the absence of every presumption of this kind. She swore that the Queen left her own bed and went to the bedroom of Bergami, where there was a large bed, and that the large bed appeared to have been slept in by two. Adverting to the evidence respecting the stains on the bed-cover, he submitted that the testimony carried with it its own refutation; for if her Majesty had her clothes on at the time, then the stains could not have reached the bed; and if her clothes were off, it was not surely likely that she would have lain above the bed clothes without any covering whatever. In either way that the case was put, the fact appeared equally incredible. The Learned Lord proceeded, at considerable length, but in a tone of voice that was only occasionally audible below the bar, to remark on the total failure of De Mont's evidence. This De Mont, or rather this demon, who, as a witness, was dead and buried, had been raised again to patch up the charges at Catania. The supporters of this bill, though compelled to acknowledge that the case had failed, as far as it rested on her testimony, had assumed nevertheless that her testimony relative to the alleged transactions in Catania was worthy of credit.

—“The times have been

“That, when the brains were out, the man would die,

“And there an end: but now they rise again,

“With twenty mortal murders in their crowns,

“And push us from our stools.”

The Learned Lord next adverted to the almost universal declaration of public sentiment against the passing of this Bill. Their Lordships by dint of a ministerial majority, might force it through that House; but through the House of Commons it would never pass, surrounded as he knew the Commons would be by the petitions of the people. It was idle to talk of popular clamour, and to represent the present expression of public opinion as something which it became their Lordships, in their legislative character, to despise. Public feeling was at all



times to be regarded, and, as a proof of its power over even their Lordships' deliberations, he would remind them of the fate of a bill relative to the methodists, which had formerly been introduced by a Noble Lord opposite (Lord Sidmouth). What became of that bill? In consequence of the general expression of public opinion against the measure, it was found impossible to pass it. He recollected that he could scarcely see the table for the number of petitions with which it was loaded: and in consequence of these petitions the House of Lords could not pass the Bill. With regard to the measure now under consideration, he contended that that House had no authority to pass a bill against the universal voice of the people. Had the King in this case any claim on the House? It had been denied over and over again by the authors of the bill that his Majesty was a party to, or had any interest in, the measure. What then was the plea on which its necessity was found? Why, it was alleged that a great national wrong had been committed. The nation therefore was the party agrieved. But here their Lordships had a great national *noli prosequi*: the people, who were the party injured, if any injury had been committed, said that the Queen was not guilty of adultery. This was not the opinion, merely, of the lower classes, but a universal feeling pervaded every rank of society; and the expressions of this feeling would become louder and louder at every stage of the present measure. The people, he contended, were not disorderly in expressing their sentiments on the subject; and such was the power of public opinion, that if the House of Commons should be crowded with the petitions of the people against the present bill, as would assuredly be the case, it would not be in their power to pass it. The Learned Lord proceeded next to remark on the evidence relative to her Majesty's conduct on board of the *polacre*, and contended that the circumstances of her Majesty's situation on that occasion by no means warranted the inference that a guilty intercourse had taken place. Suppose a man in a house in which there were no other person but a married woman: if he employed that woman in the offices belonging to a servant; if he was attended by this female during an illness, and if her sleeping apartment was separated from his by only a thin partition, would the same criminal presumption arise that was contended for in the case of her Majesty? It ought only to be borne in mind, with reference to this case of the *polacre*, that in hot climates there could be no enjoyment in such a situation; and, therefore, the object of such an arrangement could only be society and protection. But, making the most of the evidence relative to the *polacre*, it could only amount to a ground

of suspicion; and in the absence of all legal testimony on the other points, he did not find in that any reason that could warrant such a measure as the present. It had been said, however, that her Majesty had raised *Hergami* from an humble situation in life, and this fact was insisted on as a strong presumption of guilt. He knew not how the arguments founded on this supposition could be better answered than by putting an analogous case. Suppose a woman in private life should load a man with favours, and her husband, suspecting her fidelity, should institute a suit of divorce in a court of justice; if all the proofs adduced to establish acts of adultery should fail, would the fact of her having conferred favours on that man—of her having promoted him to a higher rank in society—be sustained as a proof of adultery, and a ground for dissolving the sacred marriage tie? Good God! the supposition was revolting to every feeling of justice and of christianity. Then, with regard to the witnesses on whose testimony they were to judge of her Majesty's conduct on board the *polacre*, were there no circumstances that rendered the evidence suspicious? *Gargiulo*, it appeared from his own statement, had been sent over here neck and heels, his mind fired with resentment because he had not received a present of 6,000 dollars which he expected for conveying her Majesty in his vessel. This man had been desired to come over here to get what he could not obtain in his own country. But what was to become of his 6,000 dollars, if his evidence were not satisfactory to those from whom alone he could expect to receive these dollars? He must have known, in fact, that he would never receive a farthing of this sum if he gave evidence against them. The Learned Lord dwelled for some time on the impossibility of giving credit to this man's testimony, but in so feeble a tone of voice that they were able only to collect the general purpose of his remarks. He had heard with surprise the Attorney-General express a hope that their Lordships' liberal indulgence to the Queen would not stand as a precedent to be appealed to in future. Liberal indulgence, indeed! Why, of all the disadvantages to which her Majesty had been subjected, and they were neither few nor small, the greatest was that very delay which was here designated an indulgence. In consequence of that delay, rendered unavoidable by refusing a list of witnesses, all the coarse evidence in support of the bill had been allowed to stand for months uncontradicted—a circumstance which was only to be accounted for on the supposition that it was known to be false, and that it was intended to operate against her Majesty by being sent abroad unsifted and uncontradicted. The result of the investigation on his (Lord Erskine's) mind was such, that if

re were on a jury empanelled to try the issue, he would not find the adultery proved that was charged in this bill, and therefore he could not conscientiously vote for the bill. Out of the sixteen overt acts charged in the preamble, the polacre scene alone stood proved, and it amounted at farthest to no more than a suspicious circumstance, and resting moreover only on the belief of Mr. Townam. The rest of the case, the other fifteen overt acts, being abandoned by the court, could their Lordships rely on that one circumstance of so very doubtful a description? After it had been proved that fifteen out of sixteen charges of adulterous intercourse were false and unfounded, were their Lordships to pass this bill of pains and penalties, because with reference to the 16th charge, it appeared that the parties were in such a situation that it was possible for them to have committed adultery? If the Queen had really been guilty of adultery, why had false witnesses been employed to support the charge? If she were addicted to that shameless and unguarded profligacy in which she was alleged to have indulged at the Barona, at Villa d'Esce, at Naples, &c., how came it that not one person had come forward to accuse her within the last three years? His Lordship, apparently in a state of great exhaustion, concluded by declaring that he should not have been happy if he had given a silent vote on this momentous occasion. Had he even been assured that the present was the last time he should ever address their Lordships, and he certainly was not in good health, he should still have felt himself impelled by an imperious sense of duty to come down to the house to express the opinion he entertained. (*Loud cheers.*)

LORD DE DUNSTANVILLE said, their Lordships had been told not to pass this bill, because it might not pass through the House of Commons, on account of the public feeling which existed against it. But had the public any opportunity of knowing the evidence in this case? Garbled accounts had indeed been sent forth through the medium of factious papers; but their Lordships had been forty-five days engaged in hearing that evidence, and were they to be told that they were not now to act on their own judgment? He could not but look with suspicion at the sudden and extraordinary rise of Bergami. (The Noble Lord here read the evidence of Sir William Gell, relative to the manner in which Bergami was recommended by the Marquis Giziliegieri.) He observed also that every one of Bergami's relations, with the exception of his wife, was introduced into her Majesty's service; but this he stated merely as a suspicious circumstance. Their Lordships could not but remember the other circumstances which had taken place, and from the whole of these the proofs of adultery were clear in his mind.

Among the general objections taken to the testimony of the witnesses for the prosecution, the only one, applying to two of them, the master and mate of the polacre, was, that they were much too exorbitantly paid. He did not believe that they were. He had an opportunity of knowing that, considering the necessary decorations and equipment of such a vessel, the sums paid to those individuals were not too much. If the fact, however, was that the rate of compensation was exorbitant, how happened it that the counsel for the Queen had not brought forward witnesses to prove it? With respect to Majochi, he was sure their Lordships would not consider his evidence impeached in any material point, by one witness who had been brought against him. As for any trifling inaccuracies, if such there were, (we understood his Lordship to say), the House would remember that the interpreter himself on one occasion remarked, that Majochi appeared to be so stupidified or ignorant, that he thought the man was not aware of what he was saying. As to his knowing witnesses and others, but not by name, was there one thing in the world of more common occurrence? and this remark applied to the story of Majochi and the banker's clerk. His Lordship went on to say, a remarkable instance of this occurred in his own family: (what it was the exceedingly inaudible manner of the Noble Lord rendered it impossible for us to learn.) Now he was at a loss to know why the evidence of Carrington could be taken to have at all affected that of Majochi. Carrington stated that he had had a particular conversation with Majochi. The latter being recalled to their bar, positively contradicted this assertion. On which principle, then, were they to believe the one and discredit the other? Much had been said by one of the counsel, it was true, in favour of the native good qualities and character of Carrington; but how far their Lordships would rely upon the judgment in this particular of a man who could compare his Sovereign to the bloodiest tyrant of antiquity he did not know. The Noble Lord remarked then, upon the discrepancies which a Noble Friend of his had already observed between the testimony of Carrington and that of the gallant officer (Sir John Beresford), under whom he had sailed. Carrington having, in one instance which it was certainly needless for him to recapitulate, proved himself a liar, he would not trouble their Lordships with a further examination of what he had deposed to; but he could not help asking, was it Carrington's loss of character which was to entitle him to belief? His Lordship, in the same low tone of voice, then adverted to the evidence of De Mont, which was of a clear and consistent character, particularly with respect to the letter written by her to Mariette Bron, and that the Queen, at p. 354 of the printed

evidence. He was sure that in this great and important case their Lordships would deliberate with caution, and decide upon the conviction of their own conscience. They would act independently, and with a due regard to that high rank, dignity, and consideration, of which they would be no longer worthy than they continued to preserve this independence, uninfluenced by any other considerations than those which an impartial review of the evidence might dictate. The Noble Lord then alluded to the conclusion of Mr. Brougham's speech for the defence, in the prayer and expression of which he entirely concurred; but he professed that he (Lord De Dunstanville) would rather be buried under the ruins of the altar and the throne, than vote, as he meant to do, in support of this measure, if he were not satisfied of its propriety and necessity.

LORD MANNERS followed on the same side and, under some appearance of indisposition. (We give so much of his speech as the exhausted voice in which it was delivered enables us to report.) He began by expressing his sense of the immense importance of the question now before them. Looking at some of the objections which had been taken to the evidence for the prosecution, he could not but remark, that he thought it was most presumptuous to arrogate to ourselves the sole measure of credibility, and to disbelieve witnesses because they happened to be foreigners. It was much to be lamented that a person of the high rank and dignity of her Royal Highness should so far have degraded herself; but, conceiving that to be the case, he thought the best interests of the country and throne demanded some punishment. It was therefore he had minutely examined the evidence: and he could say, that if, upon the result of that examination, their Lordships were not perfectly satisfied, he hoped they would reject the bill altogether. One circumstance in this case had made a very strong impression on his mind. It had been well observed by a noble friend of his on the cross-bench, that they had to deal with conflicting testimony: but he thought that the result was such as must remove every doubt from their Lordships' minds upon the main features of this case. The hon. Mr. Craven had deposed that he cautioned the Princess herself to take care how she demeaned herself towards Bergami. This was notorious; and to judge by the subsequent conduct of the Queen, it appeared that she felt the propriety of that caution and representation. He would beg their Lordships to couple that caution with the scene that took place at Naples and other places, and with that part of the conduct of Lieut Hownam, where he was described in the evidence to have gone down upon his knees before Capt. Briggs, and implored him to intercede and remonstrate with

her Royal Highness; and then he would ask them if all these facts did not go to prove an ungovernable passion on the part of the Princess for Bergami. But these were not all the facts that bore upon a case which he confessed he believed in his conscience to be proved. It was urged, that, upon the voyage to Jaffa, it was necessary, for the Queen's personal security, that a man should sleep under the tent with her. It might be that such a protection was necessary; but this protector happened to be the very man against all improper intimacy with whom she had been so strongly cautioned. In so doing, he did not hesitate to say that her Royal Highness had acted in defiance of all those principles of modesty and delicacy which would operate on the mind of any modest woman. The Princess acted in a way eminently discreditable and unbecoming. A modest woman, who must have known the fact of there being a man near her, under the same tent, could not have borne the gross indelicacy attached even to the mere idea of such a situation. This sort of conduct was in violation of every feeling of modesty or proper decency, and, in his mind, established the adulterous intercourse charged against the Queen. Whatever doubts had been thrown out against some individuals who had appeared as witnesses on the other side, he would say, that he thought there was sufficient evidence in this case to support the measure proposed. But he maintained that the mere presumption arising out of the facilities of access afforded strong circumstantial evidence. Where each was so accessible to the other, he (Lord Manners) should speak of it not only as the manifestation of a decided preference for Bergami on the part of the Queen, but he should say, that his suspicions were strongly directed to the fact of an illicit intercourse, from the circumstance of their sleeping by night, under this tent, for five weeks together. If it were so—and he was sure that he wished to satisfy his mind that he had taken an erroneous view of this point—it remained for their Lordships to ascertain how the fact had been met. Were those witnesses, who had appeared for the prosecution to be disbelieved, because they unfortunately spoke to other circumstances which were flagitious and disgusting? (The Noble Lord here was most imperfectly heard.) The same witnesses who had deposed to the polacre scene, if the other points to which they spoke had failed in proof, might be to be disbelieved; but those other facts were corroborated by other witnesses. (Here his Lordship adverted to the testimony of Barbara Kress, which he defended as being true and consistent. The case she spoke to was a peculiar one; and he must say that he had never heard one more clearly and correctly proved by any witness.) The whole testimony of Kress, he considered to be at once

positive and satisfactory. The view taken on the other side was inconsistent with the whole current of the evidence, and of five or six witnesses in her power the Queen had not ventured to produce one. It was not because some doubt might be thrown upon the character of some of the witnesses in support of the bill, that their testimony was entirely to be put out of the question. The public, he maintained, had a deep interest in this inquiry: the demeanour of the Queen was intimately connected with the morals of the country. Her late Majesty was a bright example of perfect decorum and unquestionable fidelity (*hear*); but her present Majesty had disqualified herself from discharging the duties of her station. He would never sacrifice the duty he owed to the public to any party feeling, and after the case brought against her, it was impossible that this woman should sit upon the throne. He was satisfied that the preamble had been fully proved, and should vote for the second reading.

The DUKE of NEWCASTLE stated, that although, from family circumstances, he had been unable to be present during the examination of witnesses, or speeches of counsel for the defence, he had heard the case in support of the Bill, and had read over the rest of the testimony with the greatest attention: so informed, he thought himself competent to give an opinion upon the present question. (*No, no.*) He thought the Queen clearly and indisputably guilty, not only of the adultery, but guilty of it in a manner the most degrading and disgraceful. When the time arrived, he should not only vote for the second reading, but for the infliction of the full penalties. Under the peculiar circumstances, it might be proper to insert a clause to prevent one of the high parties from marrying again.

The MARQUIS of LANSDOWN, who had risen at the same time with the Duke of Newcastle, was glad that he had given the Noble Duke an opportunity of making that explanation which he thought necessary, but which the House and the country would think very far indeed from satisfactory—(*Hear, hear.*)—It appeared that the Noble Duke had been present during the whole of the prosecution, but that he was prevented by considerations of his own private convenience from attending during the progress of the defence: it was admitted that he had neither heard the evidence of witnesses, nor the speeches of counsel for the Queen; yet, thus uninformed, (thus misinformed might be almost said, as he had listened only to one side,) the Noble Duke had asserted that he was prepared to vote, not only for the second reading of the Bill, but for the infliction of the severest penalties it contained. (*Lord and continued cheers.*) The Noble Duke, like other members, must of course

decide for himself; it was not for him (the Marquis of Lansdown) to say that his conviction would not be conscientious; but how the Noble Duke had arrived at that conviction was a mystery not yet solved, and to the solution of which the Noble Duke had in no way contributed. (*Hear, hear.*) Was the course the Noble Duke had pursued any thing like even-handed justice? Was the intelligence he had obtained any thing like sufficient to enable a juror, a fair and impartial juror, to arrive at a fair and impartial verdict? (*Hear.*) If it were, the great safeguard of our constitution and liberties was worth nothing: the trial by jury, for which our holy sanctuaries of public justice were admired and revered, was a mockery, because its chief, if not its only good, was, that it compelled those who were to decide upon life, character, or property, to hear both sides. (*Cheers.*) Only a few minutes had elapsed since a Noble Lord on the cross-bench (De Dunstanville) had stated that the public was incapable of judging on this important case. Why did he say so, but because the public could not have had the opportunity of hearing the witnesses examined, and watching their demeanour. What, then, would the Noble Lord think of one of his fellow jurors who affected to form an opinion, and to decide for the utmost extreme of punishment, when he had only heard what was advanced in accusation, and had not listened to a single syllable of the defence, whether proceeding from the advocates or the witnesses. (*Hear.*) If the public was disqualified because both sides reached it under equal disadvantages, was not the Noble Duke still more disqualified, who had been so attentive to the proof of the charges, and had withdrawn himself from the House at the very moment when those charges were to be disproved? (*Great cheering.*) Did such conduct become one of the judges on this great and solemn trial? or, if it did, did it become that judge to declare that he was not only ready to vote for the bill, but for its heaviest inflictions? He (the Marquis of Lansdown) spoke warmly, because it was impossible for any man not to feel warmly when he heard such sentiments; and, as a fellow juror, he should have retired unhappy from the house if he had not endeavoured to show to what extremes the supporters of this measure were willing to go. (*Hear.*) Addressing himself to the immediate question, he must say, that if he felt any difficulty, it did not arise from any hesitation as to the vote he should give, because, even after the lapse of twenty-four hours, he was still labouring under the influence of the Noble Earl (Grey,) and, in touching upon many of the same topics, he must incur the risk of injuring the effect of that most admirable and convincing address. Great as had been the public services of that Noble



Earl, and many as had been the occasions when by his powerful eloquence he had supported the valued institutions of his country by the assertion of the sound principles of justice and legislation, he had never rendered a greater public service to his country than his speech of yesterday, recollecting the effect it must necessarily have on the decision of this anxious question. (*Hear, hear.*) Averse as he (the Marquis of Lansdown) was to Bills of Pains and Penalties—averse as the house ought to be to them, and the country is—he must admit that a case of crime so monstrous, and danger so pregnant, might exist, that would compel him to overcome that aversion. He had thought it right, therefore, to pay the utmost attention to the evidence, and to look into it, not for proof of the innocence of the Queen, but for proof of her guilt. This he held to be both an important and a legal distinction, without attention to which criminal justice could not be fitly administered, and upon which in some degree was founded the vote he should ultimately give. Though there were instances in our history of Bills of Pains and Penalties, there was no instance in which a distinct crime was not professed to have been proved. These measures in former times had been entertained from various motives: sometimes to facilitate the reception of evidence inadmissible before the ordinary tribunals; sometimes to hasten the course of justice when the public safety required it; and sometimes to alter the punishment awarded by the law, and to make it more appropriate to the specific offence. But in all cases there had been a *corpus delicti*, a distinct crime, and distinct proof of that crime. In the present instance their Lordships, as Peers and Legislators, ought therefore to dismiss from their minds all evidence connected with impropriety and indelicacy, if they were not convinced that sufficient testimony had been adduced of the actual commission of adultery. He did not say that they were bound to dismiss such evidence, as members of the community; he was far from asserting that upon all questions of public morals, and more especially the public morals of individuals in the highest stations, there ought not to be a tribunal—the most powerful with which he was acquainted—the tribunal of public opinion, affording the best security for the virtuous habits of the country. He could not therefore agree with the Noble Earl who asked the house to look at the consequences of dismissing the Queen from the bar, as she would stand in a different situation to other women in ordinary cases of divorce. If there were any difference, it would be that her Majesty could not retire like a woman in a humbler station into the bosom of private life, where the charge against her would be unknown by the public, and perhaps forgotten by her friends; this important and notorious pro-

ceeding must be ever remembered; it must adhere to the Queen as long as she existed, and she was sure to experience the just but candid judgment of public opinion; subject, nevertheless, to that observation of the Noble Earl who spoke from the gallery yesterday (Harewood) which made a deep impression—that the tribunal of public opinion never acts so powerfully as when the legislature did not act in conformity with it. If we wished to see that judgment active and actively enforced, care must be taken not to impede its operation, or to raise up a counter prejudice, thus giving the people a motive for deviating from the natural course of their sentiments. (*cheers*) With these feelings he had examined the evidence for the purpose of finding proofs of the crime charged, and in doing so he had been led, like others, to that which every candid mind must consider the *gravamen* of the charge—the transactions on board the polacre, coupled as they ought in fairness to be with the elevation of Bergami. Other points had indeed been relied upon by counsel; but anxious as those who were bringing their minds to vote for the bill naturally were to find some prop on which to rest, he had heard no other part of the accusation relied upon without statements in his opinion manifestly unfair. (*hear, hear.*) All the evidence relating to other transactions was of a character more suspicious than the transactions themselves, and he did not know a better mode of guiding his opinion than by balancing the degree of suspicion attached to the evidence against the degree of suspicion belonging to the facts to which it referred. (*Hear.*) He would not go into detail, but touching upon the testimony generally, he must confess in the outset, that though he should have been better satisfied if the Countess Oldi and Mariette had been examined, yet it was but fair to recollect that the occurrences at Catania were not brought home to any particular date to which their contradiction might have been directed. Nay, what was sworn regarding Catania rested on the testimony of that witness, who could hardly exist as a witness in the minds of their Lordships.—De Mont, and in whose depositions there was, among the many contradictions, one not noticed in the course of debate: she first swore, that at Catania she had supped and gone to bed before the Princess, so that she could have no opportunity of knowing how the Princess was dressed, yet she subsequently stated that she had seen the dress of the Princess as she passed through the room when the Princess was going to bed. He had been surprised to hear the Noble Earl rely upon what passed at Scharnitz, where he had said that the Princess had not thought the protection of Bergami necessary for her security; her small room was surrounded by several men who could have assisted her if necessary, and they were not

undressed, because they were prepared to set out on their journey at break of day, and if the state of the snow would permit. All this had been most naturally accounted for by Vassalli: nobody had undressed; it was a small inn, in a small town, and the Princess and her suite retired where they could, under the inconveniences to which they were exposed. Proceeding to the polacre, he was perfectly ready to admit that it must be allowed that the sleeping under the tent was distinctly in evidence. He had seen no disposition on the part of Lieutenant Hownam to conceal this part of the subject: that officer had always made a distinction between what he knew and what he believed, and he was always willing to state his belief when called upon. He (the Marquis of Lansdown) had no distinct recollection that the Queen's Attorney-General opened the fact to the house, but it would be perfectly evident, if the house looked at the examination of Lieutenant Hownam by Mr. Tyndal, that he endeavoured to make the witness prove who it was that slept under the tent. He went even further than the rules of examination would allow for that purpose; for he said, "If you do not know who slept under the tent with the Princess, state who you believe it was." Here he was stopped by the other side, on the ground that he had no right then to inquire as to the belief of Lieutenant Hownam. Having stated this, did he (the Marquis of Lansdown) mean to say that he thought there was no objection to this situation? On the contrary, he could not pass over the subject without admitting, in the strongest terms, that it was deeply to be lamented that the Princess of Wales, or any other so near the throne of these realms, should be placed in such a predicament. This at least must be said of it—that if it were not proof convincing of her guilt, it made it impossible for the Queen to prove her innocence. When she placed herself in that situation she could scarcely have been ignorant of the imputation to which it must expose her. Allowing its imprudence—its impropriety—was it to be considered as a direct proof to establish a crime of the great character here charged, and to be attended with such consequences as were here contemplated? That he must utterly deny; and if presumptions were to be admitted on the one hand, the presumptions of innocence could not be excluded on the other. He appealed to the House whether there was any probability in the position that the Princess and Bergami, having their option of times and circumstances for committing this crime, would have chosen the deck of a polacre as the scene of their intercourse? (*hear, hear.*) In such a situation was there not every chance that they would be exposed to all risks, both of comment and detection? (*hear.*) Parties, when driven to it by necessity, might

sometimes be found carrying on an illicit connexion under most inconvenient circumstances; but here it was assumed that the Princess and Bergami voluntarily placed themselves in a situation where concealment was almost impossible. The Noble Earl on the opposite bench declared that it was not necessary for the purpose of protection that Bergami should sleep under the same awning with the Princess; neither was it necessary, he would tell the Noble Earl, to the carrying on of a criminal intercourse that Bergami should sleep there. Because, was it not in evidence that the hatchway had been constantly open? And might not such an object have been as well obtained, nay, with ten times greater security, by Bergami sleeping below, and using the hatchway at his pleasure for access to the tent? But what weighed chiefly with him (Lord Lansdown) not to produce a conviction of the Queen's innocence, but certainly to produce the most serious doubt as to the propriety of an opposite conclusion, was this—it was impossible to believe that the Princess, using that excessive caution which the very case of the prosecution ascribed to her—using that extreme caution during a period of three years—so discreet during the whole of that time, as not to afford her enemies one single positive proof of her guilt; it was impossible to believe that such a female could have been all at once so abandoned by her caution, so deserted even by common discretion, as the prosecution represented her to have been on board the polacre; it was incredible, that she and Bergami, the moment they got into that vessel—the moment they became subjected at every turn to the comment of Greeks, Sicilians, and Turks—the moment they lost the aid and protecting ministry of those servants who might be supposed to have been favourable to them—the moment, in a word, they became exposed in a tenfold greater degree than they had ever been exposed before to observation, and to suspicion; that that moment they should have laid aside all care, all caution, all ordinary prudence, and have literally courted that detection which their own folly was rendering inevitable. Because, let the House remember that all this was going on upon the deck of the polacre; that the selected spot for this criminal intercourse was within a few feet of the ever-present steersman; and a spot about which two and twenty sailors were constantly moving in all directions. He would not say that this was evidence unanswerable of the innocence of the Queen; but he would say, that it was such evidence as must engender doubt in the mind of any man; and that every doubtful point ought to be construed in favour of the accused. With him (Lord Lansdown), however, the case did not rest there; because, far from concluding with the Noble Lord opposite that the circumstances proved in other cases for-

ed accumulated grounds of presumption against her Majesty, he thought that those circumstances, taken with fair reference to the characters of the witnesses by whom they had been proved, afforded no point of ground for unfavourable presumption. For what was in evidence as to these terrible circumstances in other places? What, except this—that the identical persons above all others able to give direct and positive evidence against the Princess, if her conduct had been guilty, that those persons, now hostile to the Princess, and in the power of her enemies, had failed in every situation to make out such proof. In any case, no matter what, where the existence of guilt was assumed, and where, with the chambermaids, the house servants, with all the persons enjoying most familiar access in their hands, the prosecutors were unable to prove a single distinct fact; in any such case he (Lord Lansdown) should say at once that adultery was not made out; and he would ask the House whether, supposing there had been, even occasionally, adulterous intercourse, much less a constant course of adultery during a period of three years, was it possible, he would ask, for the chambermaid who had charge of all the linen during the time—a chambermaid not backward, let it be remembered too, in discovering any thing to the prejudice of her Royal Mistress, a lady who had her journal ready to note down a fact, and her *double entendre* to explain it—was it possible, supposing crime to have been committed, that such a woman should be unable to fix a single direct fact?

[His Lordship was here adverting, in a very low tone of voice, to the statement of De Mont as to the stains upon the bed at Naples, when he was interrupted by cries of "Adjourn, adjourn," "Go on, go on" from the other side.

The LORD-CHANCELLOR was far from wishing to interrupt the Noble Marquis, to whom the House always listened with pleasure and with advantage; but, as he did not apprehend that the speech of the Noble Lord would terminate the business, he doubted whether it would be proper or decent to detain the House to a late hour.

The MARQUIS of LANSDOWN was entirely in the judgment of the House. He should not, at all events, occupy more than a quarter of an hour longer; at the same time, he had no wish to proceed unless there were a probability that his doing so would lead to a division.

The LORD-CHANCELLOR had received intimation that there were several Noble Lords who were still desirous of expressing their sentiments upon the question.

The MARQUIS of LANSDOWN under those circumstances could have no wish to go on.

The House adjourned at half-past four o'clock.

## HOUSE OF LORDS.

MONDAY, NOVEMBER 6, 1830.

The House met at ten o'clock, and after the usual matters of form had been gone through, proceeded to the order of the day.

The MARQUIS of LANSDOWN rose for confirmation. He was not disposed to put much upon their Lordships' time, for he felt that it was not necessary for him to make many observations to those he had already made on the circumstances of the case, before he came to that still more important question on which he wished to state his opinion—namely, the nature of the measure under consideration. In the view he took of the character of the measure, he should also have little occasion to detain their Lordships; but, previously to his proceeding to that part of the subject, he thought it necessary to offer some remarks on the evidence. In doing this he should advert chiefly to particular points to which attention had been called by the observations of the Noble and Learned Lord opposite. He referred particularly to the tent at Aum, on which he was proceeding to remark when interrupted by the adjournment on Saturday. There had been pointedly alluded to both by the Noble and Learned Lord on the week-end and the Noble Earl opposite though it was by evidence which they professed to reject. The Noble and Learned Lord, in opening the debate, had declared that he disbelieved from his mind the evidence of De Mont, Mojochi, Sacchi, and Rustelli; and the Noble Earl agreed with him in throwing out of view all circumstances built upon tainted or suspicious evidence. Now the whole case at Aum was proved by De Mont and Mojochi, whose evidence was admitted to be completely unimpeached, and which, along with that of others, was thought fit to be wholly dismissed from their Lordships' consideration. Not only there was no further evidence that bore on the subject, but one of the principal witnesses for the prosecution (Paterzo) had agreed with Hownam in stating that he could not say where Bergami slept on the journey, and whether he was under the tent with the Princess or not. The Noble Earl opposite (Liverpool) had relied much on the tent at Aum being a double tent, but it ought to be recollected that there was but a very small space between the outer and inner tent; that the material of which the tent was composed was very thin; and that the intervening space was accessible to other persons. If it were proved then, by unquestionable evidence, that the Princess and Bergami had reposed under the same tent at Aum, he thought that no more inference could be drawn from its being a double than if it had been a single tent. He hoped, then, that

that there was now an end to all the inference which had been attempted to be drawn from the circumstance of there being at this place an outer and an inner tent: On this part of the case it was important for their Lordships to recollect what had been the evidence extracted from De Mont, and the manner in which that evidence was given. If they doubted the malignity of the motives which had actuated that woman, they would there find it most irrefutably proved. At page 290 of the minutes, in her examination in chief, in giving evidence as to the situation of the Princess of Wales, when reposing under the tent at Aum, she swore that her Royal Highness was undressed. Now, was it not plain, with a view to what inference this was stated? But having sworn that the Princess was undressed, at p. 290, what followed? He requested their Lordships to turn to p. 321; there they would find, after various attempts made by this woman to elude the question put to her on the cross examination, that she was at last compelled—and they must recollect with what reluctance she had been compelled—to confess that the Princess was not undressed, and thus to do away all the effect of the inference she had artfully endeavoured to establish. She fully admitted that the Princess when she reposed in the day, was in the same dress in which she had travelled during the night, with the exception of the outer robe or garment which she wore when riding. When asked whether the Princess, on setting out in the morning, had occasion to put any thing else on than the outer robe or garment which she wore in travelling, she was compelled to acknowledge that her Royal Highness had not occasion to put on any thing else, and, of course, that the evidence she had previously given, as to the aggravated circumstance of the Princess being undressed, was totally false. He called their Lordships' attention to this circumstance in the evidence of De Mont, not because he thought it necessary to argue that there was no impropriety or indelicacy in the situation attempted to be proved with respect to the tent at Aum,—that was not the question,—what he contended was, that as, in the case of the tent on board the *polacre*, no inference could be drawn from it that the crime of adultery had been committed, it amounted to nothing more than this—that the parties, being both dressed, had, in a hot climate, and under circumstances of great bodily fatigue, reposed under the same tent. He came now to the observations which had been made by the Noble Lord opposite (Liverpool) and other Noble Lords on the subject of her Majesty's English attendants having left her; and here he could not help noticing the misconstruction, though he was sure it must be unintentional, which had been put by the Noble Lord opposite on the evidence of Sicard. The Noble Earl had endeavoured to make

that person's evidence support the charge of a wish on the part of the Princess to get rid of her English attendants. The evidence of that person, who had delivered his deposition at the bar in a most candid manner—if there was any bias, with that fair bias which was due to a kind mistress whom he had served—was selected as the person from whose supposed admission this inference was to be drawn. Their Lordships would recollect that Sicard had been asked questions respecting his leaving the Princess of Wales; but the manner in which the questions were put was to be considered. He was asked, whether he had left the Princess at Naples? To this question he answered, "No; the Princess left me." The answer was true, but not so the inference which had been drawn from it. But if the Noble Lord had gone further, he would have found from the very next questions that Sicard went from Naples to Genoa on business. This was an explanation of the answer, "No, her Royal Highness left me," which ought to have been given. In page 595 Sicard was asked—

"Where did you go from Naples?—From Naples I went with the servants and the baggage, and the horses, down to Genoa, by sea.

"Did you remain at Genoa till her Royal Highness arrived there? No.

"Where did you go to from Genoa? Immediately for England."

Then, in page 605, this subject was again referred to, and he begged their Lordships' attention to this part of Sicard's examination. He is asked—

"Was it you who proposed to the Princess that you should come to England, or did her Royal Highness order you to come to London? I pointed out the necessity, about different things that wanted arrangement in this country, that it would be necessary to come about the sale by auction of the furniture, and a number of bills unpaid."

Now, with this answer on their Lordships' minutes, he would put to them whether any man could fairly draw that inference which the Noble Earl had established (*hear, hear*) from the observation of Sicard, that her Royal Highness had left him. Could it be for a moment maintained that the Princess wished to get rid of Sicard, when he stated that the proposition for his visiting England came from himself; and that he pointed out the necessity of his coming, and assigned reasons for the journey, the propriety of which their Lordships must admit? It besides appeared that her Royal Highness made him promise to return with his family. Sicard, however, did leave her Royal Highness at Naples, as had been stated; and in adverting to this part of the subject he must notice what had fallen from a Noble and Learned Lord under



the gallery. That Noble and Learned Lord (Lord Manners, we believe) had stated that one circumstance had made a very strong impression on his mind, which was, that Mr. Craven had warned the Princess against being seen walking with Bergami. Now he would ask their Lordships whether it was fair to lay any stress on that? (*Hear, hear.*) Undoubtedly Mr. Craven had spoken to the Princess in consequence of seeing her walking with Bergami in the garden. But if the Noble and Learned Lord had gone a little further, he would have seen an explanation of that fact; and if he meant to avail himself of the fact, he must take the explanation with it. If the Noble Lord recollected the whole of the evidence, he must have been aware that Mr. Craven had stated that he would have given the same caution to her Royal Highness had he seen any other servant walking with her; that it was not in consequence of the person he saw her with but the situation, which he thought might expose her to inferences such as had been drawn against her. He said that he knew there was a spy at that time at Naples, having had information to that effect from England; and that being the case, he thought it necessary to caution her Royal Highness with regard to any outward appearances that might be misconstrued. This was the purport of the evidence which Mr. Craven had given on the subject to which the Noble and Learned Lord had referred; and, having recalled it to their Lordships' recollection, he was entitled to say that it was subject to no such inference as that which the Noble and Learned Lord had drawn. It was certainly true that a great part of her Royal Highness's suite had left her in Italy. But, unless a ground of dissatisfaction with her Majesty's conduct could be shown from the evidence, their Lordships had no right to draw such an inference from British subjects having left her in a foreign land, when it was known that they were engaged only for a limited time. That limited engagement was of itself a proof of their previous desire to return. He would now call their Lordships' attention to the case at Carlisle, on which he could not agree with his Noble Friend who had spoken from the cross-bench, for he thought that it was a case which ought to be completely banished from their recollection. It was a case in which one party appeared as witness by compulsion for the prosecution, and in which another was by the same means withheld. The Noble and Learned Lord on the cross-bench had insisted much on this case; but surely it was one which their Lordships were bound to throw entirely out of consideration. He said this with confidence, because he was sure such evidence would never have been considered fit to be referred to the decision of a jury in any court over which

that Noble and Learned Lord had presided who had said that the evidence relative to that part of the case had made a strong impression on his mind. He, for his own part, must certainly admit, that, when he heard the evidence of Barbara Kress, the impression he received was favourable to her. It was a case, too, in which much of what was stated was open to contradiction. But all that Barbara Kress said was not, therefore, to be believed. If she wished to speak truth, it still was to be considered whether she was not deceived in what she stated. Their Lordships had heard the circumstances to which she spoke, and they were such as rendered it probable that she supposed she had seen the Princess, when the person she saw was the Countess Oldi. Then the Noble Earl opposite, in reference to this part of the case, had asserted that Barbara Kress was a voluntary witness. In order to give weight to her testimony, the Noble Earl had described her as coming voluntarily forward in the cause of truth. He believed it was so. Was he mistaken? Let their Lordships, then, look at the evidence. From the testimony of Kress herself, nothing could be clearer than that she was a voluntary witness. (*Hear, hear.*) The very instant the Princess of Wales had quitted those apartments which Baron Von Grimm had so generously given up to her (for what purpose he left it to be supposed), the Baron returned to them, and having made strict search for particulars of the character of which he was in quest, the next thing which he did was to send to Kress, and ask her if she had seen nothing in the conduct of her Royal Highness which would help to form grounds of criminal accusation. And then their Lordships were to be told that Kress was a voluntary witness. (*Hear, hear.*) It was plain that she had been brought here by the influence of power, and it was proved that the same power which compelled her to come forward had kept back another witness required for the defence. (*Hear.*) Could, then, the Noble and Learned Lord, after this, say that the circumstances sworn to at Carlisle were to be believed? In closing his observations on this part of the case, he must remark that some Noble Lords had, with much apparent candour, declared their readiness to dismiss from their minds particular parts of the evidence: some had said they were content to give up the evidence of De Mont and Majocchi; others, of Rastelli and Sacchi. Some declared they would pay no attention to the affair at Trieste; others, that they surrendered the journey to Sinigaglia. But he must say that their Lordships were bound not to dismiss any part of this evidence, or any of these cases, from their minds. They were bound not to forget any one of those cases which had been collected from so many different parts

of the world, and all of which bore the same character of falsehood. The interests of truth and justice required their Lordships to keep in remembrance the evidence on those cases, and to reflect seriously on the manner in which they had been procured. Her Majesty's counsel, it must be recollected, had been prevented from going into any general proofs of conspiracy, because such a proceeding was not consistent with the practice of the courts below. But, though they were circumscribed within the narrow limits of law, there came out evidence that, not in one country only, but throughout all Europe, at least in all parts of it where her Royal Highness had resided, a belief some how or other was created, no matter by what cause or agency, that to give evidence against the Princess of Wales was the surest road to fortune and favour. If he believed this—if he were compelled to admit that a most expensive machinery of agency had been established throughout the Continent, extending throughout all ranks, from a German Minister of State down to a chambermaid, who was not less honourable in that pursuit than that Minister of State with whom she was a joint labourer to procure witnesses against the Queen—he was bound to give her Majesty the advantage of that suspicion in every case in which it could possibly apply. In no other way could the evidence of Sacchi, Cuchi, and others, be accounted for—those excellent persons, who had declared that they came forward, and made a tender of their services, from the pure love of morality and truth. Their evidence was to be attributed to the same source. In no other way could it be accounted for than by an opinion, credited throughout the continent of Europe and particularly in Italy and Germany, that whoever comes forward to state facts injurious to the Princess of Wales would, by giving such testimony, greatly benefit themselves. He would now ask their Lordships whether they were not bound to consider this general probability? There was no other way to account for the appearance of so many of the persons at that bar. This probability ought to be taken into consideration in weighing the evidence of Gargiolo and Paturgo, with respect to circumstances in which they had not been contradicted, and with respect to some indeed, because, not being true, they were incapable of contradiction. When they saw an attempt made to establish the belief that her Majesty did not go on board the *polacre* a pure and innocent woman, but embarked previously tainted—and to bring that belief in aid of facts said to have occurred on board the vessel—were their Lordships not to take into consideration the accumulated falsehoods collected against her Majesty, and to give her the full benefit of that consideration? When he saw such infamous means used to procure testimony, he felt him-

self bound to conclude that other evidence had come to the bar under the same influence, to give the illustrious person the advantage of the doubts which must arise from that circumstance, and to consider her pure and spotless in all cases where her character had been tarnished by such evidence. There was another circumstance with respect to the evidence which he must still notice. Their Lordships had been desired to compare the evidence of De Mont and Majocchi with that of Flynn and Hownam—to put the wilful forgetfulness and palpable contradictions of the former on the same footing of general testimony with the occasional absence of recollection in the latter. Was this done with candour? Let their Lordships recollect that it was an essential principle of evidence to distinguish between that of a witness who had lost the memory of facts which had existed, and the testimony of him who remembered that which never did exist, and could forget circumstances relating to the same period of his evidence which had really taken place. Majocchi could recollect Bergami having been ill at Naples, and stated circumstances attending that illness, which, according to the evidence of Dr. Holland, never existed at all. Majocchi could not recollect that any medical man had attended Bergami in that illness. Another circumstance to which he called their Lordships' attention, was not so much as to what had passed at Catania, but with reference to what had taken place in the pulchre, when it had been said that the Countess Oldi and Mariette ought to have been called. He was not quite satisfied that their testimony had not been resorted to, to contradict some parts of the case; but it was to be observed, that in most of the instances the time and place had been so imperfectly specified, that the Countess Oldi and Mariette must have found great difficulty in giving direct contradiction to the accusations. It was very improbable that they could have given any satisfactory evidence on the points in question, and strong reasons were assigned for withholding them. But he confessed that he had heard with much surprise a desire expressed—and with still the greater surprise that it was joined by the Noble and Learned Lord on the woolsack—that Bergami should be called to the bar. Now, were that person put on his oath, whether he admitted or denied the charge was a circumstance which would not weigh one feather in his mind, nor would it be believed in the mind of any honourable man. A case of divorce occurred not a great many years since in Scotland—it was not necessary for him to mention the name of the parties—in which a similar call was made by one of them; but, on its being proposed to examine the person who was charged with having a criminal connexion with the woman

accused, one of the most eminent Judges that ever sat on the bench of the Court of Session, had said he was bound to state that, if he were called upon to give testimony under such circumstances, he should consider himself absolved from the responsibility of his oath, and the necessity of declaring the truth. He did not say whether this opinion was just or not, but he stated it as one which had been given, and given from the bench, by a person who was likely to be duly impressed with the solemnity of an oath. Many of their Lordships must recollect the case in which Major Hooke was called as a witness to their bar; that he swore no intercourse had taken place between him and the woman charged with adultery; and that no credit was given to his testimony. Upon this part of the subject it was impossible that he should not refer to the absence of those witnesses who had not been produced by the crown, whose absence rendered the case utterly defective, and whom the crown had all the means of producing. He should refer to it, not with any difference of view from that which had been taken by the Noble Earl (Liverpool) on his introduction of this measure—not with any difference of sentiment from that which had been professed at the bar by the counsel engaged in prosecuting it—but with a very material difference of view as respected the conduct of the Noble Earl, and the mode of proceeding which the counsel had adopted. From what they had stated at the outset as the object of the inquiry, and the principle on which it was to be conducted, he had imagined, not that partial evidence, but that all the evidence bearing on the case, was to be laid before their Lordships by those who supported the bill in the first instance. (*Hear, hear.*) He had understood it to be the cause of Truth versus the Princess of Wales; and that, when the Noble Earl (Liverpool) so far assumed the character of a party prosecuting, he bound himself to an engagement that, if there should be any evidence for becoming in favour of the defendant, it was not to be suppressed or held back. But, now, let their Lordships mark how the just and liberal purpose so professed had been carried into effect. Let their Lordships recollect who the witnesses were whom it must have been in the power of the prosecutor to bring forward, and to whom it had been left to call them. The whole bearing of the case had been made to turn upon the occurrences at Naples, where, according to the Attorney-General's statement, the whole system of adulterous and degrading intercourse commenced. Now, it was notorious to all the world that Dr. Holland was at that time her Royal Highness's physician; that he stood in the peculiar situation of having begun and ended his connexion with her household at that place; that his connexion was not of a duration or

intimacy which could be likely to sway or influence, his testimony, except the dictates of his own honest mind; he was in a situation of independence, and every circumstance, in fact, pointed him out as the most unexceptionable and important witness who could be called to speak to the matter of charge, as it was laid at Naples, for or against it. (*Hear.*) Dr. Holland, however, was not only not called to the bar by the advocates for the bill, but it appeared that at no time had any inquiry been made of him by these prosecutors, so anxious for the truth, and the truth alone. (*Hear, hear, hear.*)—This was the prosecutors way of supporting the cause of truth and the interests of justice! Again, he would ask why Maurice Credi had not been brought forward, it being stated in evidence at the bar that he was in the house when the adultery was first committed? And, above all, why was not Annette Preising called, the woman who had the care of the linen, who had at least made the beds, and who, according to the course of proof which prevailed in courts of law, when trying cases of this nature, must have established the fact of adultery or no adultery? Whether Preising was within the precincts of Cotton-garden he knew not, but she certainly was in this country, and might have been produced. Yet, notwithstanding these extraordinary omissions and defects on the side of the prosecution, this unaccountable absence of the most essential kind of proof, it was still urged by some Noble Lords that all the evidence on the other side was given under the influence of partial feelings, by witnesses who had enlisted themselves in the cause as partisans—by individuals with a strong bias on their minds; and that the supporters of the bill alone had no interest except in a full discovery of the truth. (*Hear, hear.*) He really thought that the house itself had been hardly dealt with, in not being permitted to hear the evidence to which he had alluded, in a case of this magnitude and difficulty, and in which they were called upon to adopt so extraordinary a measure. The house must be supposed desirous of arriving only at the truth, and yet the most effectual means of arriving at it had been withheld. With regard to other parts of the case, which, when connected together, led some noble lords to found upon them a presumption of adultery, he must at once declare that he could join in no such presumption. That there was evidence of some impropriety and indelicacy, supposing that their Lordships could entertain a charge of that nature, he would not dispute. But he hardly thought the house would think itself justified in trying any individual, and much less the Queen of England, upon a charge of impropriety. If that were possible, he, for one, should certainly not hesitate in the verdict which it would be his duty to return.

He would take care, however, at the same time, not to express it in the harsh and unqualified terms which he had heard, even in that house, applied to the conduct of this illustrious and unfortunate individual. (*Hear, hear.*) His verdict must be accompanied and connected with a remembrance of the peculiar situation in which she had been placed; and he should not think that he was dealing with that humility which best became the infirmities of our common nature if he were to overlook the numerous circumstances that ought to qualify and mitigate his censure. In every condition of life we derive our chief support in the discharge of our moral duties from the consolations of friendship, from an intercourse with society, from the respect and value attached to character, from intimate connexions and near relationships. It was seldom, without all these aids and supports, that moral obligations were filled satisfactorily to ourselves or others. On the present occasion he was bound to advert to some circumstances, although he meant not to go into their merits, which must have influenced his judgment, had he been called upon to pronounce it on the general conduct of the Queen. He would, however, go no farther than to suggest, that any person who had to act a solitary part—for whose conduct there existed no fixed rule—who was left unguided by any of the lights afforded by a situation more known and definite, had strong claims on their indulgence and liberality. It was in consequence of what he had heard thrown out upon this subject a few days since, that he thought it right to make these few observations with regard to it. He did not offer them in mitigation of any fault of which their Lordships could take cognizance, for he would contend that they had no authority to pass any judgment upon it whatever, and far less the present bill. The nature and character of the bill merited indeed particular notice, and he should be sorry if the House were to come to a decision without deeply considering them, independently of the question, which rested on the evidence alone. Far from thinking that this was not a stage of the bill for discussing its expediency, he conceived that they were bound, as patriots, as statesmen, and as legislators, to go at present into that discussion. A Noble Earl (Liverpool) opposite had said that a bill of pains and penalties carried a bad name with it. Long, he trusted, would it so continue to carry a bad name. (*Hear, hear.*) The Noble Earl had said this measure might be called a bill of pains and penalties; but after all, what was it but a common divorce bill? In this observation he had been seconded by the Noble and Learned Lord on the woolsack. It came however, with an ill grace from those who had originated this proceeding, and who, at its commencement, had, in order to enable

the House to act as judges in the cause, proposed a committee to search for precedents—into what? Into precedents of bills of divorce? No; but into precedents of bills of pains and penalties, and, under the pretext and colour of which special character, the important precedent of the Duchess of Norfolk had been excluded from its report. (*Hear, hear, hear.*) Now, when the whole weight of the present measure was about to fall upon the Queen's head, these same Noble Lords turned round, and asserted that it was only a common divorce bill. This, too, was affirmed by the Noble and Learned Lord on the woolsack, who, he should have imagined, must be aware that this measure was as different from a divorce bill, as a bill to give relief to the subject differed from a bill to inflict punishment. Relief was the only object of a divorce bill; and if it punished, it punished incidentally. Here punishment was the object; and, if it could be supposed that relief was given, that relief was incidental. The legislature interposed on this occasion, because there was no law in existence which was applicable to it. Could their Lordships then conceive that any justification was to be found by flying to the shelter of Bills of divorce, in a case where no proceeding had taken place in any of the courts below, where the inquiry was conducted in a manner altogether novel, and went throughout on doubtful and imperfect evidence? This would be to deal out the harshest measure of justice which ever was administered by any legislature pretending to distinguish between right and wrong, and would be an infringement not only of the Queen's rights, but of the rights of every subject of the realm. The Bill was more harsh and violent in its operation than any former Bill of Pains and Penalties; and might well be, as it was, unpopular, not only with the mere rabble, as they had been called, and who had been described as knowing nothing of its nature, or of the place which enactments of this kind filled in our history, but with the middle and thinking classes of the community, with those classes who constituted the most valuable part of the moral force of the nation. Every writer of reputation, every man of wisdom and virtue had held such acts of legislative authority in abhorrence. The present generation enjoyed the inestimable advantage of being instructed by the labours of men whose genius had shed the light of day on many of the most interesting branches of political science. There were few now sitting in that House who had not availed themselves of this advantage, and who did not bring to this discussion minds enlightened by a perusal of Blackstone and Paley. If, then, they found Blackstone, when commenting on the laws of his country, and Paley, in treating of the principles of morals and their effects on public and individual prosperity,



unite in their condemnation of such bills as the present, and regard them as a mockery of justice; if it was seen that Blackstone recorded from an explanation of the term "Bill of Pains und Penalties," lest he should be supposed to view it as part of our established system, and that Paley described all such proceedings as anomalies that seldom failed to be attended with consequences which all men deplored, surely their Lordships would pause before they gave their final sanction to so odious a measure. Was it wonderful that under the guidance of these great authorities, the instructed part of the people should concur in the general sentiment against it, that they should be averse to all private laws of this kind, and particularly where the purpose was to depose a Queen? As a legislator he was bound to consider the effect of a law on the people at large, before he consented to it. Their Lordships must not forget that they were about to pass a law, and not to pronounce a sentence. (*hear, hear.*) They were not administering, but making a law, on a supposed ground of public utility and convenience. Like all other laws, it must be left to work its own way, when it should have passed; and they could not, therefore, be too cautious in calculating beforehand its probable effect on public opinion. With reference to that effect, the bill appeared to him to be highly inexpedient. It would be regarded as a violent application of violent means, having no other foundation than a presumption arising out of a bare possibility. It would be said, that because the Princess of Wales and her Chamberlain were found reposing under the same awning, on board a ship, and there sheltering themselves from the ardour of the sun—because they were in a situation in which adultery might have been committed, the House of Lords thought proper to infer that it must have been committed. It was from what was supposed to have taken place on that occasion that the expressions in the preamble must derive their justification. It was there asserted that great scandal and dishonour had been brought on this country. Now he should be glad to know in whose eyes this great scandal and dishonour had appeared, or had been reflected on the British nation? In the eyes of the world? No, but in the eyes of Gargiulo and Paturzo; they were the representatives of Europe in proclaiming the scandal which was said to have gone forth so widely; they best knew how far our national character had been defamed. No eyes had witnessed except their eyes, no opinion on the subject had been formed except by this pious uncle and his modest mate. (*a laugh.*) They, it seemed, out of some regard to the fame and reputation of a country whose ships and sailors they had occasionally seen, kept the secret in their own breasts, and never dreamed of disclosing it till the Milan commission

was instituted. (*hear, hear.*) Nay, he verily believed that had either Gargiulo or Paturzo been asked 6 months ago, what were their feelings and impressions of the English character, as arising out of the voyage in question, the only answer would have been that they had not made the *buono marcia* which they expected. They had not, he would venture to state, formed any unfavourable opinion of this country, for they had subsequently expressed none at their Lordships' bar. To revert, however, to the subject of public opinion on the measure now under consideration, it was certainly difficult to appreciate all the mischief of which it might be productive. Their Lordships had heard of bills for altering the succession, and the ground upon which the present measure was recommended would apply equally to a bill for that purpose. It was founded on an expectation of advantage to public morals. Without any particular allusion, he might here remark that, in the natural course of events Queens might succeed to the throne as well as Kings. Should any small number of persons, from the peculiarity or malignity of their nature, or pushed by their situation into desperate courses, collect together a variety of circumstances not creditable to the moral character of some member of a family which had no right to the throne of these realms but what was given to them by an act of parliament—the same sort of title which the Queen derived from her marriage act—was it not obvious that the most fatal consequences might ensue if the principle now adopted should be adhered to? No matter whether the statements and charges made by the small number of persons to whom he had alluded were true or false, and no time would be when Sacchi and Rastelli would be wanting. But upon the principle of this bill, as set forth in the language of its preamble, the legislature would be bound to take the charges into consideration, to sit in judgment on the moral conduct of the illustrious defendant, whilst the nation divided itself into parties on the question whether or not he should be set aside, and forfeit his title of succession to the throne. Immoral example, scandal and dishonour thereby brought upon the kingdom, were the only pretexts for passing the present measure. Because six years ago, or rather during the three years which preceded the last three, the Princess of Wales was said to have pursued a line of conduct calculated to produce an immoral effect, it was inferred that she would now resume that bad example, and that it was, therefore, necessary to depose her from her Royal state of Queen Consort of these realms. Why, let this precedent be established, and add to it one or two more of the same kind, and they would arrive at elective monarchy. (*Loud cries of hear, hear.*) Elective monarchy stood on no other principle than the effect of personal character

in the sovereign on the condition of the governed; and the great basis of hereditary monarchy was, that under it such guards and securities might be established for the subject as would render him independent of the personal character of the individual who swayed the sceptre, and the personal character of the reigning family. If they were to incorporate the policy of this bill into their system, occasions would soon arise for bringing out into active contention all the inflamed prejudices and political passions of the country, and the foundation of an elective monarchy would be laid. Was there, then, any public interest for the formation of a precedent so alarming? None that he could possibly understand. He now came, however, very near to his conclusion, and would trouble them with a very few additional observations. He was aware that many Noble Lords, although no pledge or suggestion had of course passed to such an effect, would give an unwilling support to the second reading of this bill. They flattered themselves that it might afterwards be got rid of in some way or other: many were inclined to think, each looking to his own favourite mode of escape, that the bill might be greatly mitigated in the committee, and some even conceived that the second reading was one step towards throwing it out. (*A laugh.*) If this offspring of the wisdom of government were once adopted and cherished to a certain period of existence, they hoped to have the inexpressible gratification of witnessing its funeral. (*A laugh.*)

“*Duciter irratis plaudendum funus amicis.*”

A very little attention would show that it was utterly impracticable to mitigate the provision of the bill. No alteration in the preamble could alleviate the punishment inflicted by the first enacting clauses. But it was unaccountably imagined by some Noble Lords, that by omitting the divorce clause they would soften the effect of a preamble in which the Queen was described as an adulteress. Now this, in fact would be no alleviation, but a very great aggravation of her punishment. How could it be an advantage to her to be considered the King's wife, after the state had renounced her? If this Bill were to pass, his Majesty would be obliged by no law to support or receive her. But it would also operate as an additional punishment and disability, for, whilst it deprived her of all privileges and protection, it would leave her still exposed to the severe power which the law vested in the King over his wife: so that whilst, by the talk of alteration in the preamble, they declared the guilt to be less than what had been charged, they would, by leaving out the divorce clause, render the punishment more severe than was at first denounced, and, having done all this, were prepared to exclaim, “There,

now we have mitigated the bill.” (*hear and a laugh.*) This was the mitigation which those Noble Lords in their wisdom were disposed to accede to. He was sure that a very slight degree of reflection would induce those Noble Lords, or at the least the House, to pause before they proceeded further in their present course. Up to this moment they were safe; but a few hours must decide whether they would now, and to all future time, connect their name with such a proceeding, and, whether the bill should finally pass or not, inscribe on an eternal and indelible record, that having convicted the Queen of guilt by a presumption drawn from a possibility, they instantly proceeded to pass a law to carry their judgment into effect. Against the further progress of this measure he now solemnly protested. (*hear.*)

Lord Manners and the Marquis of Lansdown mutually explained.

The EARL of LIVERPOOL made a few remarks on the manner in which Sicard had been sent away by her Majesty, which were not audible below the bar. He also said, that, when he spoke of this Bill of Pains and Penalties being a Bill of Divorce, he spoke of its effect, and not its character.

The EARL of LAUDERDALE rose to explain upon two points, into which he entered at considerable length, when he was called to order by

EARL GREY, who said that, however unwilling he might be to interrupt the order of the House, he must, if this Noble Friend persisted move against him that order which prohibited any of their Lordships from addressing the house twice upon the same subject.

The EARL of LAUDERDALE stated, that he had been accused of adding suspicious evidence against her Majesty to what had been satisfactorily proved, in order to produce a conviction of her guilt. Now he argued that in Hownam's evidence, which it was acknowledged—

A PEER.—This is no explanation.

The EARL of LAUDERDALE (with great animation of voice and gesture)—No explanation, my Lords! I have no notion what an explanation is, if what I am offering to your Lordships is not one. Even in the Courts of Westminster-hall it was usual—but to do or say what, we could not hear, from the depression of his Lordships' voice, which suddenly became as low as it before was loud and violent.

The LORD CHANCELLOR was sure that the Noble Earl would excuse him, when he said that he was certainly wandering beyond the usual bounds of explanation. His reference to what passed in Westminster-hall could have nothing to do with the present question.

The Earl of Lauderdale then sat down; after which,

The DUKE of NORTHUMBERLAND, being unwilling to give a silent vote upon so great and important an occasion, rose to express his opinion that the allegations contained in the preamble of the bill had been in the main satisfactorily proved. He had paid impartial attention to the evidence which had been offered on both sides, and also to the manner of the witnesses in giving it; he had listened to the arguments which had been urged by Counsel at the bar, and to those which had fallen from Noble Lords in the course of the debate; and he now felt in his conscience convinced that a long course of licentious intercourse and of adultery had taken place between her Royal Highness the Princess of Wales and her servant Bergami. With such an impression upon his mind, he could not allow such a person either to claim the respect which ought to belong to a Queen-consort of England, or to remain at the head of female society in this chaste and moral country. (*a laugh.*) On these grounds, he had no hesitation in giving his vote for the bill as it now stood, unless by some milder measure, in a future stage of it, her Majesty's personal influence could be removed from the country. He trusted, however, that every measure would be taken to avoid any thing like anger or personal irritation in this proceeding, considering that her Majesty was the niece of their late Sovereign, the descendant of a line of heroes, and had commenced her career as wife under no very auspicious circumstances. (*Hear.*) He should vote for the second reading of the bill.

LORD HOWARD, though he had concurred with the Noble Earl opposite (Liverpool) in thinking that the papers sent down to Parliament should be referred to a Secret Committee, and though he had afterwards concurred with him, on the authority of the Noble Lord on the woolsack, in thinking that it would be far more favourable to her Majesty to proceed against her by a Bill of Pains and Penalties than by impeachment, declared his intention of voting against the second reading of the present Bill. His Lordship was heard very indistinctly below the bar, but he was understood to say that the evidence of Majocchi, De Mont, Sacchi, and Rastelli, the four discarded servants of her Majesty, appeared to him to have been so completely contradicted as to render all comments upon it unnecessary. The force which had been employed to bring Barbara Kress from Baden to this country, because she was a witness on behalf of the prosecution, and to keep Baron d'Ende away from it, because he was a witness against it, looked very suspicious. The abstraction of Rastelli, too, was totally inexplicable; and, connected with the other circumstances to which he had alluded, sent the case out of doors

with such a taint upon it, that, if the public did not then coincide with their Lordships as to the guilt of the Queen, it was not likely that it ever would. Much had been said on both sides about the witnesses who had not been called; it was stated that on one side the Countess Oldi and Mariette Bron were not forthcoming—and that, on the other, Credi, Preising, and many individuals whose names were not material, were also wanting. Be that as it might, he thought they must all agree upon one point—that a body of clear, strong, indisputable, and unimpeachable witnesses were wanted, before their Lordships could, in their judicial capacities, pass this Bill. Looking to it as a legislative measure, it now appeared to him so odious, that, even if the preamble of it were proved, he must oppose it. He did not know whether he was at liberty to allude to the House of Commons; but, after what had occurred in their Lordships' House, he could not help thinking that if the Bill ever went down to the Commons, it must be inevitably lost. That was a consideration which their Lordships ought not to neglect in coming to their decision on this great and important occasion.

The EARL of ENNISKILLEN. — My Lords, I supported the Noble Earl in bringing in this Bill; but, in deciding upon it, I think that a man should only be guided by himself. I have listened to the whole of the evidence: it is so extraordinary, it is so full of contradictions and falsehoods, that I cannot convict any person upon it. I shall therefore vote against the second reading of it. (*Hear.*)

Several Lords rose at the same time for the purpose of speaking, but LORD CALTHORPE, having first caught the Lord Chancellor's eye, proceeded to address the House. For the first few minutes his Lordship was inaudible, owing to the confusion both within and below the bar; when we were able to hear him, he was observing, that considering the strong conviction which he entertained that gross and degrading familiarities had been proved against her Majesty—considering, also, that the reasons which he had urged against this bill, on its first introduction, were all of them now redoubled in weight and importance—he should be guilty of forsaking his duty if he did not state the reasons of the vote which he intended to give. He was by no means prepared to state that every Bill of Degradation which could be framed would have been improper against her Majesty; but even with a Bill of Degradation, rendered justifiable by the peculiar circumstances proved against her, the same moral necessity which compelled their Lordships to examine into her conduct would compel them, in the equal dispensation of justice, to look into the conduct of others with whom she was connected, and would thus imperatively call for the

omission of any divorce clause. As, then, a divorce clause would, under any circumstances, be inadmissible, he must view the bill before their Lordships simply as a Bill of Degradation; and, in stating the reasons why it ought not to pass, he might perhaps be allowed to mention the only two causes in which it could have been justifiable. If a case of guilt, accompanied by all the licentious circumstances which it had been attempted to prove against her Majesty, but which, it must be recollected, had not been satisfactorily proved, had been fully established to every man's satisfaction, and if the state had then been inclined to pass such an extremity of punishment as was now proposed, he would not say that a Bill of Degradation would not in that case have been proper: it might also have been proper if such a case of guilt had been established, after it had been proved that her Majesty had voluntarily deprived herself of conjugal rights. But the faults of her conjugal life were not her own. Without alluding to any thing more than the letter which had been placed in evidence before them, he must say that such a license as was bestowed in that letter, though it not extenuate the conduct of the Queen, rendered the Bill of Divorce quite unjustifiable. But even if a Bill of Divorce were to be passed, by whom was it to be passed? By the state? And what constituted the state? That House, which was at once accuser and judge, formed a part of it. He submitted that the House had been guilty of such a neglect of their duty in allowing her Majesty to go abroad, as impaired their power of passing this punishment upon her. Her character had been thought so important, that the state had been made her accuser; and being so important, was it right in their Lordships to permit her to leave the country without any remonstrance having been made, without any statement having been forwarded to her, that she was, by such conduct, forfeiting the protection of public opinion, so powerful in this kingdom; that she was withdrawing herself to other countries where the scale of morals was much less exalted than in England; and that she was therefore subjecting herself to temptations, which might, in the course of events, become the subject of serious public concerns? He did not mean to say that there were not circumstances, which at the time of her Majesty's leaving this country, made it a matter of satisfaction to her to do so; but with them their Lordships had nothing to do: it was their duty to have remonstrated with her, and to have prevented, as far as in them lay, her absence from England. They had not done so—and he could never lose sight of the responsibility which they had contracted in consequence. In that responsibility the other house of parliament, who formed the second part of the state, had

also a share, though not to such an extent as their Lordships, owing to the members of it having been twice changed since the Queen's departure for the Continent. Yet that house would also have to join in this act of legislation, as also the third party in the state, if the bill ever came to the last stage of legislation. Were these days, he would ask, to expose the kingly power to the odium which the King's assent to such a measure as the present was sure to bring upon it, whether the King was considered in his character of husband or head of the state? Was it advisable to ask the consent of the King to the degradation of the consort to his crown? He thought that it was not, and therefore could not give his sanction to the present measure. He never could allow it to stir a step to its completion; because, if he allowed it to go to the second reading, he should recognise a principle of action towards her Majesty which he could not sanction under her peculiar circumstances. With this strong feeling against the bill, he had a feeling no less strong as to the guilt of her Majesty. He was compelled to admit that her guilt was of a gross and degrading nature. He wished not to palliate it; the laws of God and of men—his own conscience—the peace and honour of private life—forbade him to call such offences as her Majesty had been guilty of by any soft or extenuating terms. He felt, however, the awkward dilemma in which the House was placed. Looking at it as the supreme guardian of public morals, he was sorry, considering the offensive and degrading nature of the crime proved against her Majesty, that no other alternative was left to it than to acquit her Majesty, or to pass the present bill, which, in its origin, its principles, and its penalties, was equally objectionable. It would be highly desirable if the House would express its opinion of such conduct as had been proved against her Majesty; and he could not help wishing that his Noble Friend, who had spoken so well (Lord Ellenborough) on the subject, had afforded the house an opportunity of recording its opinion upon it. Considering that the House was the guardian of the public morals, it certainly owed it to the state to vindicate them, and it would not be performing its duty if it abstained from doing so. He never could admit that this was so much of a judicial question as to render it necessary to come to a vote of guilty or not guilty upon it. It was more a legislative than a judicial proceeding: and, in a legislative proceeding, their Lordships were bound to look at every moral and political consequence which might result from it. Looking at it as a legislative measure, he could not help telling their Lordships that it would be more productive of injury to the morals of the country than it yet had been by the disclosure of the evi-



dence, should they abstain from the expression of their opinion on the conduct of which her Majesty had been proved guilty by unsuspected witnesses. He did not undervalue public opinion; there could be no doubt that it would at last right itself upon this subject; but, appreciating public opinion as he did, he considered it one of the most unhappy effects of the present measure, that it had, by its very form, enlisted even the generous and compassionate on the side of licentiousness. He thought the House owed it to the country—it was a claim the country had on it, for having made itself instrumental in pouring upon the nation such a mass of odious and disgusting evidence—evidence which had, by its very nature, contributed to poison the sources of social happiness more than any other means that could possibly be devised: he thought the country had a right, when this was the case, to demand a strong expression of feeling from their Lordships. The House, having made itself responsible to the country for a temporary deviation from its character—their Lordships standing in the character of guardians and supporters of the public morals—it was peculiarly called on to make that compensation to the country for the evil which it had itself been instrumental in inflicting on the country. Considering the subject thus, he could not in any degree, vindicate his Majesty's government for having originated a measure like the present. He knew that great allowances were to be made for the peculiar and trying situation in which his Majesty's ministers stood; but he so far agreed with his Noble Friend (the Earl of Harewood), who had spoken from the gallery, as to think that, if Ministers had consulted that test, which, under so many circumstances, they had found to be a faithful and a true guide—he meant public opinion—they never would have brought this subject before the country in this particular shape. He could not, therefore, vindicate Ministers for having brought forward a measure like the present; but he must say, in justice to his Noble Friend at the head of the government, that, although he thought the credit of his administration would have stood higher if this subject had not been introduced to the house in its present form, and if their Lordships had not been pressed to decide on it; in this way, still the manner in which his Noble Friend had conducted it—the fairness, and manliness, and candour which he had evinced throughout the whole of the proceeding, had brought to the support of his administration an influence that never had been feeble—the influence of private character. (*hear, hear.*) It might be said that when resigning, as it were, the reins of government in this country—when placed in a situation the most trying that was ever ex-

perienced by a Minister of the Crown—when that which his Noble Friend considered to be a duty had devolved on him (though he, Lord Calthorpe, did not consider it a duty), he had entitled himself to a greater degree of public esteem than he had ever before enjoyed. (*Hear, hear.*) With respect to a large number of the members of that house, who, in the early stages of this proceeding, seemed to be the peculiar objects of obloquy and reproach—he meant those Noble Lords who habitually supported his Majesty's Government—he felt himself entitled to say, from his own observation of the conduct of those individuals on this occasion, that he never saw greater fairness, greater anxiety, or a more determined desire to act according to the dictates of their conscience, than had been displayed by them: and he was persuaded that, if the measure should be pressed to a further stage, the conduct of that house would prove, more fully than it had ever yet proved, that it deserved to rise in public estimation, by showing that the love of justice, which was cherished in all other classes of the community, was equally revered here. He could not sit down without again entreating his Noble Friend (Lord Ellenborough) who threw out, the other day, the suggestion, that, by address or resolution, their Lordships should declare its sentiments on this important occasion, to follow up that idea; and thus afford to the house an opportunity of vindicating its own moral character—of satisfying the claim which the country had on it—and, moreover, of protecting the character and honour of that sex, whose moral virtues formed the chief ornament of civilized society. (*Hear, hear.*) With these impressions, he felt himself compelled to vote against the second reading of the bill. (*Hear, hear.*)

The MARQUIS of STAFFORD did not mean to detain their Lordships for any considerable length of time; but still he deemed it necessary to express his sentiments on an occasion of such paramount importance. Whether he was called on to support the second reading of this bill on the ground of justice or of expediency, still the measure appeared to him objectionable. The Noble Lord on the woolsack, in the course of his speech, had said to their Lordships, "Be just and fear not!" He echoed the sentiment—

———"Be just and fear not;  
"Let all the ends thou aim'st at be thy  
country's,  
"Thy God's, and truth's."

He wished to proceed according to this principle; and, having in view the interests of honour and of justice, and the safety and welfare of the constitution, he must vote

against the second reading of the bill.—  
(*hear, hear.*)

LORD DE CLIFFORD meant to trouble their Lordships with but a very few observations on the measure now before them. He would not dwell on the evidence, which had already been accurately examined. Although he had made up his mind to a particular view of the question, still he could not suffer himself to give a silent vote on it. The charge against her Majesty was, that she had carried on an adulterous intercourse with a person of low condition, and in a most disgusting manner. But in the course of the evidence much contradiction appeared, and many palpable falsehoods were detected. The main case was not therefore supported, although there was ground for believing that her Majesty had been guilty of much impropriety of conduct. In considering the case, he could not altogether forget the unfortunate difference that existed between her Majesty and the King—a difference which occurred a great many years since, and which, it was probable, occasioned that conduct they were now occupied in investigating. (*Hear, hear.*) It was supposed that her Majesty's residence in this country would be attended with ill consequences; but he could scarcely suppose that she would wish to remain here, when her residence could not be attended with any degree of comfort to herself. He could not believe that her Majesty would remain, or intended to remain, in England. Rejected, he was sure, the bill would be, in one stage or another (*hear, hear*); and certainly the sooner they got rid of it the better (*hear, hear*); the sooner they put an end to it, the more speedily would the ferment which existed in every part of the country be allayed. (*Hear, Hear.*) Many other circumstances unfavourable to the measure pressed on his mind, and therefore he felt it necessary to give his vote against the second reading of the bill. (*hear, hear.*)

LORD GRANTHAM did not rise for the purpose of protracting the debate at that late period, but as he was on this occasion compelled to oppose those whom, in public he had supported, and whom he esteemed in private, he could not deny himself the gratification of stating the grounds on which he had formed his opinion. It was said, at a very early stage of this proceeding, that the measure must be decided on evidence the most conclusive—on evidence unsuspecting and unsuspected—on such evidence as must bring conviction home to the mind of every man in the country. He had given the closest and the most serious attention to the evidence throughout; and, in his opinion, it did not come up to that description. It was said, that enough had been proved to influence the decision of a jury in any ordinary case, and in any ordinary court; but, in answer to that, he must observe that this was

not an ordinary case, neither was that an ordinary court. (*Hear, hear, hear.*) They were not met to try how far offences had been committed against existing laws, but for the purpose of framing a new law to meet a particular offence. (*hear.*) Their Lordships were acting in the capacity of legislators, rather than in a judicial capacity; and he saw so many difficulties in the progress of this Bill through the House of Lords—he also contemplated so many in its progress through the other branch of the legislature (for he thought it neither unparliamentary nor unreasonable to consider what might occur in the other house of parliament)—he observed such a variety of difficulties for which human wisdom could not provide, even if the bill were passed—that he thought the wisest and best course for the country was, that the measure should be immediately put an end to. (*hear.*) He felt there were some difficulties which, let them pursue what line of conduct they would, could not be avoided. The throwing out of the bill would, he was aware be some triumph to a particular class of persons. It would give pleasure to a base and malignant faction in this country, who cared no more for the Queen than they did for the constitution, and who had only availed themselves of the Queen's cause to delude the judgment and inflame the passions of men less cunning and less informed than themselves. (*Hear, hear.*) Such persons would have a temporary triumph. (*Hear, hear.*) He believed, with the Noble Lord who had spoken from the gallery (Harewood), that that triumph would be temporary (*hear, hear*); for he was convinced that the good sound sense of the country would hereafter form a correct judgment in this case. (*hear, hear.*) He should also say, that, certainly, if this had been a common case of impeachment, where he was to say guilty, or not guilty, he could easily have made up his mind. There were undoubtedly circumstances of great suspicion, and there were much contradictory evidence. But, although many witnesses were overturned, there were also many who were untouched. The evidence of the Queen's own witnesses, which weighed with him most deeply, afforded matter of grave consideration. Therefore, though he felt himself bound to say "Not Content," he could not put his hand on his heart, and say "Not Guilty."

The EARL of BLESINGTON could not give a silent vote on this question. There was one or two points in the evidence to which it was particularly necessary to allude. A Noble Lord, who had spoken on a previous day, stated that his mind was satisfied by the evidence of the polacre scene alone. Now, it did appear to him (Lord Blesington) that neither the evidence of Gargiulo or Paturzo, who was untouched, and he would state why he thought so.

Paturzo who was so anxious to make out strong evidence, stated that when certain transactions took place on the deck, his relation, Gargiulo, sent him away, sometimes on one pretence, sometimes on another. Now when Gargiulo was examined to this fact, he denied any recollection of it; but he afterwards, on being pressed, acknowledged to have sent Paturzo away once, and but once only. This was a material point of contradiction. In another part of his evidence, in which he wished to show that great indecency, if not adultery, had been committed on the voyage, he alluded to the situation of the bed on deck, he was contradicted by two persons. He noticed these points, because, where such contradictions existed, it was extraordinary to hear a Noble Lord declare that his mind was convinced of a fact, resting, in a great measure, on the testimony of these witnesses. The Noble Lord also appeared to place great reliance on the evidence of Kress, which was completely destroyed. It was asked, "Why have not her Majesty's Counsel brought forward the Countess Oldi?" If he had been acting as counsel, and had been asked to call the Countess Oldi as a witness he would not have produced her at their Lordship's bar, after the manner in which Lady Charlotte Lindsay had been cross-examined by the Solicitor-General. She, the daughter of a prime minister, and the sister of an earl, was called on to disclose private communications that had taken place between her and her husband—to procure a letter that was supposed to have been written to her by her brother, relative to leaving the Princess's service—and she was obliged, with tears to acknowledge her own misfortunes. If such were the conduct pursued towards this Lady, what sort of an examination would the Countess Oldi have undergone at their Lordships' bar? This was not a case like that of Isabella and Mortimer—she a woman of eighty, and he a man of fifty—where the paramours were actually discovered together. The Queen said, "I come before your Lordships with confidence—I am ready to abide by the laws of my country—I do so with a full conviction that nothing will weigh with your Lordships but the laws of the state and the principles of equity." But this bill, he contended, was contrary to equity: and if they passed it, they would, instead of adhering to the law, be sanctioning a new measure, founded on evidence that had been disproved and refuted. (*Hear, hear.*)

The EARL of GOSFORD was sorry that he was obliged to offer himself to their Lordships' notice; but his intention was to state, very shortly, the grounds on which he had formed his opinion. He must say, from the evidence which had been adduced at their Lordships' bar, that, had this been a case of

impeachment, he would have been under the painful necessity of pronouncing a verdict of guilty; but he could not, for many cogent reasons, give his vote for the present measure, which was pregnant with danger and difficulty. He conceived, when a case of this kind was introduced, it should be supported by such decided evidence as would convince every mind, however scrupulous. This was not the case here. He would not listen to any thing dictated by faction, violence, or clamour. But he admired the generous, independent, and loyal feeling of this country—and that feeling he believed to be hostile to the measure. (*Hear.*) Their Lordships could not be conceived, take more effectual means to allay the irritation which at present prevailed in the public mind than by throwing out this obnoxious bill. He could not see how any man could vote for it without the divorce clause—and he knew not how any man could vote for the measure with it. (*Hear.*) The greatest difficulties attended the progress of the bill: the farther they advanced the more those difficulties increased; and therefore, he conceived, they ought to abandon it at once. (*Hear.*)

The DUKE of ATHOL said he never rose with so heavy a heart as he did on this occasion. The vote he was about to give was dictated by a sense of duty, and by a feeling of honour and conscience. Other Noble Lords took a different view of the subject from that which he entertained. He gave them credit for the purity of their motives, and he claimed the same liberality himself. (*Hear.*) The evidence in this case was so clear and convincing—it had been so acutely commented on by many Noble Lords, particularly the Noble Earl-opposite (Lauderdale), whom he thanked for his able observations—as to leave no doubt on his mind. They had for near 50 days been occupied with this subject; and having attended with as much consideration as possible to every thing that had occurred at their Lordships' bar—to all the evidence that had been adduced—to every argument that had been advanced for and against the measure; having marked with attention the eloquence and talent that had been displayed by many Noble Lords, he declared upon his honour, as a peer of parliament, that he considered her Majesty's guilt to have been proved even by her own evidence. Thinking so, he should feel himself unworthy of a seat in that house if he did not state his opinion. (*Hear, hear.*) If, then the charges were well founded, what was the House to do? What other course could they take;—He did not profess to be a lawyer sufficient to enter into a discussion of the history of bills of this nature. It was for him only to express himself, as their Lordships he was sure wished him to express himself, like a conscientious and honourable Peer. The question for

them to consider was, whether this Bill should go to a second reading or not? He would not detain their Lordships by stating the evidence, and commenting on those disgraceful scenes which it disclosed. He could not, however, but observe, that many Noble Lords who had given their opinion against the further progress of this Bill, had, at the same time, stated that they believed the Queen to be guilty. That they should vote against the measure surprised him greatly. They must have recollected that it had been incontestably proved that for 35 days the Queen was within a tent alone with Bergami. Even her Majesty's counsel, in conducting her defence, admitted the fact.—Did not this afford ground for more than suspicion? Standing in the situation of a father of a family, it became his duty when called on, to state what construction he put on such conduct: and, in his opinion, no construction could be put on it but one—that of a cohabitation between the sexes. Well, then, some Noble Lords said, there was a ground for suspicion, while others asserted that her Majesty's guilt was proved. What were they to do in this case, where impropriety of conduct could not be denied? Were they not to take some means to support the morals of the country? With whom was the guardianship of those morals to be intrusted if not with that grave and dignified assembly? Could any Noble Lord, who considered the Queen's guilt to be indisputably proved, permit an individual, against whom such charges were substantiated, to continue at the head of virtuous and polished society in this country! Would they suffer the morals of their wives and daughters to be endangered by such an example?—They had a serious duty to perform, and they were bound, for the preservation of female purity, modesty, and chastity, to take some notice or other of the Queen's offence. If, in the committee, alterations were proposed, or resolutions were submitted to their Lordships, such as appeared to him sufficiently strong to save the morality of the country, to express the sense of the House, and to preserve in future the purity of the British name, he should be ready to concur in them. He was of opinion that they ought to read the Bill a second time, and then go into a committee, where they could consider whether a resolution would be advisable, or whatever else might appear fit and proper to be done, consistently with the circumstances of the case. Much had been said about the deficiency of the evidence; but he did in his conscience believe, that if that which was proved before their Lordships—namely, that these parties lived together, under a tent, as man and wife, for thirty-five days—was substantiated in any ordinary case, it would be considered as conclusive evidence. Every advantage

was afforded that could enable her Majesty to make a good defence. Her advocates were most ingenious and most eloquent. But their Lordships would recollect that even they admitted the fact to which he had just adverted; and he could not, therefore, lay his hand on his heart, as an honest man, and say that the scene on board the polacre did not prove to his conviction the guilt of the Queen. He should vote for the second reading, thinking that when it came before the Committee, something might there be proposed to satisfy his mind that a due regard was paid by their Lordships to the virtue, morality, and well-being of British society. He had thus plainly spoken his opinion, and he trusted every Noble Lord would express his sentiments with the same openness and candour.—(Hear.)

The DUKE of SOMERSET next addressed their Lordships. His Grace spoke from the extremity of the gallery, near the throne, on the ministerial side of the House, and could be very imperfectly heard below the bar. He objected, as we understood, to Bills of Pains and Penalties generally as being of an anomalous nature. The present case was one of extreme hardship, the evidence being chiefly that of discarded servants, who were always viewed with an eye of suspicion. A most material witness for the prosecution had been allowed to withdraw himself (*hear*), and this circumstance strongly confirmed the suspicion of a conspiracy, which other facts had excited. Several of the stories too had been completely contradicted by witnesses of the most respectable character on the other side. There were not at all sufficient grounds for passing a Bill of Pains and Penalties. (*hear, hear.*)—Throughout the discussion there had been a confusion of two things: it was one question whether there had been any impropriety in the conduct of the Queen; it was quite another question whether there was proof of the guilt charged in the preamble, which alone could warrant a vote for the second reading. (*hear, hear.*) If there had been improprieties in the conduct of the Queen, it did not follow that she was guilty of adulterous intercourse. There was direct proof only of the manners of the Queen; there was nothing proved of the state of her morals. The evidence against the Queen was discredited by the manner of giving it; there was the most minute recollection of matters against the Queen: on other matters there was no recollection at all. In judging, too, of the conduct of the Queen, their Lordships ought never to forget that she had come a foreigner to this country, that she was notorious for the freedom of her manners before she was selected to be the wife of his Majesty; and that a complete uniformity to the manners of this country was not to be expected. In her conduct many extraordinary and imprudent circumstances might be traced; but they were not hard to be account-



ed for without any impeachment of her morals. This prosecution had excited feelings of disapprobation throughout Europe.—(hear.) He earnestly hoped this Bill would not pass, and he most decidedly and conscientiously would give his vote against the second reading. (hear.)

LORD GRENVILLE made some observations at the beginning of his speech which we could not hear. He now rose to do what to that very moment he had hesitated whether to do or not. It had been impossible for him to offer himself earlier to the attention of the house, and perhaps it was very unimportant to their Lordships whether he should offer any observations or not on this question. At the close of that tempestuous period of which his Noble Friend had spoken so feelingly and eloquently—a period in which the whole of his public life was spent—at the end of a period of 38 years, he had himself wished and resolved to dedicate to privacy and retirement the remaining days, whether they should be more or less; and few they must be, even if his life should be one of the longest allotted to men. But, were he as anxious to take part in this question as he was solicitous to withdraw from it, yet, even in the most active period of his life, there were circumstances—and particularly in reference to what, many years ago, he had been compelled to do, and what he could not have avoided—which would make him particularly desirous to avoid taking any part either in the progress or the conclusion of this investigation. But their Lordships had thought proper to require the attendance of all the members on this occasion. This order he felt it his duty to obey. He was, therefore, not voluntarily present; he was acting not according to his wishes or doing what was gratifying to his mind; but he was bound to perform a task which he had no power to avoid. Yet he had doubted to that moment whether he ought to endeavour to attract their attention, feeling, as he did, no desire that any statement of his should be considered of sufficient importance to affect any one in voting, judging, or legislating on this occasion. On many former occasions, indeed in all instances, he had addressed their Lordships with an anxious desire to persuade, to urge the adoption of principles which he judged most conformable to the interests of the country. But in this case it was not so; in this case, on this day, he only wished to do his duty—a duty of a judicial nature—and it was not at all consistent with his feelings to do more than only to speak his own opinions, and the motives on which the judgment of his own mind was formed. He had not the power—but if he had the power, he had no desire to shake the opinions of others. He felt no such desire) and (he addressed their Lordships from no such wish. Upon this occasion so many Noble Persons

who were not in the habit of addressing their Lordships thought themselves nevertheless called on to avow their opinions, and to declare their intentions, he thought that he too was called on to give his opinion. If he were unwilling to give the grounds of his vote, it might be supposed that there was something improper in those grounds. He, therefore, rose solely to give the grounds of his vote, and with no presumptuous hope and no desire, if he had the power, to influence the opinion of any other member; and he should now take very few minutes in stating his view of the question before their Lordships. The question was not, as seemed to have been intimated by so much having been said on the subject, whether this or any bill should be read a second time. This question, like every other of this kind, consisted of a mixed consideration of justice and expediency. It was a question of justice, because no man could vote that this bill should pass, one step farther after the evidence was closed, unless he was convinced by the evidence that a clear and sufficient case of guilt, and of that kind and nature which the bill expressed, was made out. Without that conviction, it was impossible that any man could vote for the second reading. But he admitted that a man might with perfect consistency, as many Lords had expressed an intention of doing, say that this guilt was far more fully proved than he could wish; but that considerations of a public nature made it expedient that the bill should make no farther progress than this stage, and therefore that he would vote against the second reading. Upon the question of justice he was bound to say, because that was a parliamentary question—upon that question he was bound to say that, if he could bring his mind to consider—and he had most sincerely and anxiously inquired whether it was possible to bring his mind to the conclusion that suspicions only were proved against the Queen—if he could have brought his mind to consider it only a question of suspicions, and a case in which guilt was not proved, he would give his vote against the second reading, without a moment's hesitation. But it was his firm conviction, on the evidence—it was his conviction, founded on facts of the most substantial kind, that an adulterous intercourse, within the period charged, and with the person charged, was much too strongly proved. Many Noble Lords, in stating their opinions as he was now doing, had told their Lordships that, in considering the evidence, they considered themselves bound in duty to exclude many doubtful parts of the case; but, dispose of the doubtful parts as they would, there were facts—undisputed, admitted on all hands: not only undoubtedly proved, but admitted to be true—which amounted to a clear and judicial proof. If any thing

would have added to the present pain which he felt, it would be still more painful to be called on, if what was clear and admitted were wholly taken out of the case, to say "Guilty" or "Not Guilty" on those parts of the case on which doubt, suspicion, and distrust lay. He had not formed, and he was glad he was not obliged to form, any judgment of the case, or to say whether he would say "Guilty" or "Not Guilty," had all the facts which were admitted been taken out of the case. Yet there would still remain ground enough for a judge or jury to hesitate well, after giving the accused party the benefit of any doubt, as the law humanely directed, whether they might not be compelled to come to a verdict of guilty. They, at least he, came to a verdict on this question upon the part of the evidence which was clear and undoubted. That part was the evidence respecting the circumstance on board the *polacre*. The circumstances on board that ship were not to be separately considered, for they were not in fact separated from other parts of the case; but they were to be coupled and combined, and taken in connexion with the other part of the case which was not disputed—namely, the extraordinary, sudden, and successive promotion of a menial servant, not only to a name, rank, and station of chamberlain, but to be the constant and sole companion of the consort of the King of this country. These parts were not disputed, they were not attempted to be contradicted, and they left no room for fair or reasonable doubt on his mind. A Noble Lord had enumerated that seven or eight persons spoke distinctly to grossly indecent familiarities. Those familiarities, coupled in his judgment with the circumstances on board the *polacre*, left no room for doubt. A Noble Lord near him had argued respecting one suspicious circumstance being confirmed by another: nevertheless, he took those circumstances combined as clear proof. It had been unquestionably proved that an accumulation of detached suspicions, or of suspected circumstances, without connexion with any common point, could never prove guilt. But the present evidence was directly the reverse. In every case decided on substantial evidence, each circumstance by itself might afford comparatively little ground of inference; but the effect consisted in the accumulation of suspicious circumstances, all concurring in one point, all leading to the same fact. (*Hear.*) In every one of the cases of murder, which he needed not refer to more particularly, where the conviction of the criminal took place, to the universal satisfaction of mankind, on circumstantial evidence, each circumstance was unimportant in itself, but the force and accumulation of circumstances produced the fullest conviction. It was a trite, but true remark, that evidence

arising from various particulars bearing on the same point afforded a stronger proof than positive testimony. The concurrent testimony of witnesses might be fabricated or false, but concurrent circumstances left no doubt in the mind. Circumstances might form a very complete proof, yet each might prove nothing. Both the following circumstances might concur, and yet the perfect innocence of the persons accused be established. The absence of a person from home at night, when the crime was committed, would be suspicious. If it was added that absence was at the very hour when the deed was committed, the suspicion was increased; but if to these circumstances were added, what might be consistent with perfect innocence of itself, that the accused was close to the very spot where the deed was perpetrated—these circumstances would require the addition of but very little circumstances to establish the most satisfactory proof. It was in this way he formed his judgment in this case. It was admitted that this menial servant, who had no peculiar recommendations to promotion, was, in a few months after he had entered the service, raised to the table of her Royal Highness, made a partaker of all her meals and all her journeys, and was found living apparently in as much familiarity as if the closest possible connexion had subsisted between him and her Royal Highness. He admitted, as it was truly stated by all who opposed this bill, that these were only suspicions. If this were all, it would be imperative, in his judgment, to vote against the bill. There might be impropriety which none could justify, but it would be extreme cruelty to construe that impropriety of itself into a proof of guilt. It was fairly possible that all the familiarities stated might be admitted to have taken place; and yet, recollecting their nature, that was very difficult to conceive such a case—but it was possible that these familiarities might have taken place without an opportunity of criminal intercourse, and therefore they would not be sufficient to produce a conviction that the crime was committed. But when they came on board the vessel, when they found the same person sleeping under the same tent with the Queen for five weeks together, when they had it proved that all other persons were excluded from the interior of the tent, and that those who accidentally got into the tent retired, as from a place from which they were secluded—then he knew not why this evidence should not be conclusive; he knew not how he could bring his mind to any other conclusion but that an adulterous intercourse took place. Charges of the nature now in question were in the great majority of cases decided in this country on that precise ground. But when he coupled this evidence with the total absence of all excuses—for no excuse had been as-

signed which could be in the slightest degree satisfactory to any one who heard him—no opinion—whatever opinion had been offered on the facts themselves—no opinion had been offered that the excuses set up proved the necessity or even the convenience of sleeping together under the tent; when he coupled the fact with the absence of excuse, he could not avoid the conclusion of guilt. If there were any person who saw any ground on which he could bring his mind to doubt, he was bound to give the benefit of that doubt to the accused. He meant to say that, taking all the presumptions of innocence on one hand, and taking away all presumptions of guilt on the other, adding all he could see in favour of the accused, they had no weight whatever when set in opposition to the continued cohabitation, combined with the familiarities which were admitted, and with the person with whom she cohabited. Suppose they could persuade themselves that all this had taken place without criminal intercourse, he knew not how they could account for the parties having been found in that situation. If it had been a person who had never received any particular favour, if he had been a menial then, and always continued a menial, if she had always comported herself towards him as a person in her situation ought to have done, they were bound to give a verdict in her favour. But who was the person? It was the very person who was not only proved but admitted to have been advanced from being a menial servant to be her constant and familiar companion. If the advancement had been separately proved, and it were found that a person had been so promoted, but a person with respect to whom no impropriety appeared in her conduct, and towards whom she had always acted as a person of her rank and station was accustomed to act, then she was entitled to a verdict in her favour. But opposite facts established an opposite presumption, because not only was he raised to a rank which did not naturally belong to him, and admitted to an intercourse which they could hardly conceive any circumstances could entitle him to, but they found, in addition, that with this person she indulged in familiarities which were proved not only by the testimony of one witness, but of many, who were not only not suspected or contradicted, but not attempted to be contradicted. Then, he said, and with the deepest pain, that he could feel no doubt of the guilt of the accused. If their Lordships came to the determination that there was not sufficient ground of conviction upon such circumstantial evidence, and of clear and direct proof, then they must determine that in no future case could a tribunal in this country convict upon such evidence, and that adulterous intercourse never should be established but upon ocular proof. He needed not tell their Lordships that it was impossi-

ble to find such proof in 99 cases out of 100 or 999 out of 1000. He founded his conviction, then, on undisputed, admitted, unproved facts. The facts were those which he had stated as shortly as possible, which had been called on to state when it would have been a great relief for him to abstain from saying anything on this case. With this impression on his mind, he felt himself compelled to say, "content" to the second reading of the Bill. He would now offer a few observations on the view he took of the expediency of the measure. He admitted that there was no stage of such a Bill as the present, in which the question of expediency could be put out of consideration altogether. But if there was any stage in which expediency was not indeed to be wholly excluded, but where it ought to form the least part of the consideration by which their Lordships' oath was to be regulated, that stage was the present. He was not here, nor in any stage of the Bill, to give an opinion as to what was the most eligible and desirable mode of proceeding; on that subject he had never been called on to give an opinion. Their Lordships having agreed to adopt the present form, and a Bill having been brought in and read a first time, they had fixed the time for its second reading, and had ordered the attendance of members. Though he was far from being excluded from the right, which every peer possessed, of urging their Lordships, before the evidence commenced, to re-consider that vote, yet he looked upon that point as settled, and considered it his duty to wait for the present vote on the course on which the House had determined, intending to regulate his vote by the failure or the establishment of the charges contained in the preamble of the Bill. He had cast his mind to consider whether there was any other course, and the result of all the deliberation which he could bestow on the matter was, that he knew not how those of their Lordships who were convinced of her Majesty's guilt could do otherwise than vote for the second reading of this Bill. The question, therefore, with regard to the second reading, was, merely, whether they should proceed to pronounce that judgment, on which the minds of some of their Lordships were determined, or break off the proceedings abruptly, and leave this great and momentous question deferred, but not decided by the majority of the House. (Hear.) He would ask those who did not think the proofs conclusive, whether, if a majority were of that opinion, it would not be the greatest and grossest injustice to deprive the individual accused of an opportunity of ending this proceeding by a complete acquittal? It would be the height of injustice to determine that the proceeding should drop without an explicit declaration of opinion as to her Majesty's guilt or innocence. As to the no-

tives that might influence their Lordships' minds in coming to a decision on that question, he was fully aware that many persons might vote against the second reading of this Bill, as indeed many Noble Lords had declared their intention of doing, not from a conviction of her Majesty's innocence, but from a dislike of the form of proceeding adopted. On the other hand, however, none could vote for the second reading in whose minds there was not a confirmed assurance of her Majesty's guilt. (*Hear, hear.*) He had only a few words more to add on that which their Lordships might have to decide on a future occasion—namely, whether this bill should pass. But before any man, holding the opinions which he entertained, could determine what vote he should give on that question, there were two things that must be carefully considered. Their Lordships must in the first place consider to what extent guilt appeared to be proved against the party accused, not in the opinion of one person or of another, but in the judgment of the majority of the court; and then that degree of guilt could only be marked by adopting the preamble of the bill as it stood at present, or in some other altered form, such as might be agreed on by their Lordships; and if the house should not concur in the extent of guilt, the party accused would, as in other cases, be entitled to the benefit of their Lordships' doubts. There then only remained to be considered what was the nature and what the proportion of punishment that ought to be affixed to that guilt. On that subject he had heard opinions delivered, and indications of intention expressed, to a degree that must have disgusted the house. It had been suggested that the present enactments of the bill might be altered by the omission of the clause which was originally intended to make a dissolution of the marriage-vow. He had felt considerable difficulty on the subject, and he meant to leave his mind open to the consideration of that question, as he had done in every part of the case, done to the latest moment at which any thing could be stated to influence his decision. But, as the matter at present stood, he did not ask on what grounds it was possible to exclude that enactment from the bill. (*Hear, hear.*) He did not see how it was possible, if the bill were passed at all. This, he was aware, was not the proper stage for the discussion of that subject; and he should not now have expressed his opinion, if contrary opinions had not already been stated. He intended to keep his mind open to conviction, and if any change took place in his sentiments on this point, he should in explanation state the grounds that had produced that change. In the view which he took of all the various parts of the case, he thought it his duty to vote for the second reading of the bill. In coming to this conclusion, he

did not exclude the expediency of the measure from his view, nor did he overlook the present alarming state of the country; but all the eloquent appeals which he had heard had not produced in his mind the conviction that there would be less public mischief occasioned—that the public evil which was now hanging over the country was more likely to be averted by the sudden termination of the present proceeding, than by the second reading of this bill. (*Hear.*)

The EARL of ROSSLYN was always sorry when it became his duty to make any observations on a subject on which he differed in opinion from his Noble Friend who had last addressed their Lordships. He gave his Noble Friend full credit for the declaration made at the outset of his speech, that in delivering his opinion on this subject he was discharging a painful duty, and that he was not anxious to influence the judgment of others by his arguments. But the arguments of his Noble Friend, notwithstanding this declaration, did appear to him (Lord Rosslyn) to be calculated directly to influence the vote of the House. (*Hear, hear.*) He was glad to hear from his Noble Friend that circumstantial evidence, resting on accumulated concurrent circumstances, was calculated to carry conviction to the judgment. He agreed with his Noble Friend in thinking that circumstantial evidence was of great importance; and he also admitted that his Noble Friend had truly described the nature of such evidence, when he said that it applied to those cases in which a number of circumstances all concurred to the same end—that was, to the same fact—so that it appeared to the human mind next to an impossibility that that act had not taken place. He admitted that such circumstances so concurring, ought to have, and must have, great weight; but let him now apply this principle of evidence to the present case. (*Hear, hear.*) Would his Noble Friend tell their Lordships that these circumstances, the character of which he had defined, applied to this case, and tended to exclude the possibility of believing that the alleged guilt had not taken place? (*Hear, hear.*) It had been said, that in a case of murder, if a man was found with a knife, which corresponded to the size of the wound, his garments bloody, the time concurring, he being proved to have been from home, and unable to give any excuse for his absence, then there was in these circumstances a great presumption of his guilt. His Noble Friend, however, seemed to forget that these circumstances all concurred to prove one act. (*Hear, hear, hear.*) But if a man had been found with a knife drawn at one time, it was not hence to be inferred that he had committed murder at another time; nor was it to be inferred, because a man had committed violent acts in one place, that he had committed murder in



another. (*Hear, hear.*) But, farther, when it was said that their Lordships were in this case to rely on circumstantial evidence, and when it was shown that one-half of those circumstances were proved by false testimony, (*hear,*) and that the agents for the prosecution had been endeavouring to suborn witnesses to swear to other circumstances—were their Lordships then under that situation as to the impossibility of withholding conviction on circumstantial evidence, which his Noble Friend had stated? If he rightly understood what was meant by circumstantial evidence, it consisted of a number of circumstances, proved by undoubted evidence, all bearing on a particular fact, and leading the mind to the conclusion that it was next to impossible that these circumstances should have occurred unless the act in question had taken place: but here their Lordships found that a great proportion of the circumstances were absolutely and undoubtedly false; that others had been rejected by the prosecutors themselves, (*hear*); and that many of them were proved by persons who had been convicted of endeavouring to corrupt others; and, therefore, his Noble Friend's case dropped to the earth, as far as it rested on the application of circumstantial evidence. (*Hear, hear.*) He might also observe, before he dismissed this part of the subject, that there was in this case the absence of one important thing, an absence which could not have occurred if the circumstances stated in evidence were true. Their Lordships had evidence before them on which some stated their conviction that an adulterous intercourse had subsisted without interruption for 35 days on board the polacre; and amidst all the circumstances of suspicious character that had been stated at the bar, in reference to what took place in the polacre, nothing had been said about stains on the bed-linen during that time. He came next to that argument of his Learned Friend which rested on the alleged familiarity between her Majesty and Bergami; and, in the first place, he was prepared to maintain, that the imputed acts of familiarity had not in any case been proved. The boatmen, on whose testimony many of these acts of familiarity rested, had been directly contradicted by another boatman who had been seated nearer that part of the boat where her Majesty sat, and consequently had a better opportunity of observing what took place. Then, again, that offensive story, not in itself very important, but got up as an instance of indecent familiarity—he meant the Adam and Eve story—it was contradicted by the evidence of two witnesses of unequivocal character. As to facts stated to have taken place, under circumstances in which they could not have been seen by any person but the witness who stated them, it was clear that they admitted of no positive contradiction;

but when he saw agents, such as Fastelli and Reganti, employed in corrupting witnesses—when he saw a commission established at Milan, and holding an open shop where any man knew he could be hired, and could get pay in proportion to the importance of the facts he asserted—could he look to that evidence without suspicion, even if he did not attribute to it the character of direct and positive falsehood? Having so far cleared away these grounds, he had the satisfaction of knowing that a great proportion of the charges were dismissed by the prosecution. The alleged acts of adulterous intercourse at Scharnitz, at Carlsruhe, at Turin and at Naples, were all given up; though he could not help observing that many noble lords, who had found themselves compelled to relinquish these charges, still seemed to lean to them with a pertinacity for which he could not account, unless by supposing that these Noble Lords were desirous to mislead the judgment of those who heard them. Majocchi, De Mont, Sacchi, Cuchi, and the rest of that tribe, these Noble Lords wished to be thought not so bad as they were known to be; and with what good and fair motive it was wished to make such an impression he was at a loss to conceive. His Noble Friend having rested on the elevation of Bergami, in the first instance, as a suspicious circumstance, relied altogether on the 35 days on board the polacre for the proof of that adulterous intercourse charged in the bill. But, in judging of these presumptions, their Lordships would do well to apply the case of a man living in a private house, in which a woman was the only other inmate, and to consider whether the same inference of guilt would be drawn as was here contended for. Their Lordships, however, had it in evidence, that if Bergami had remained in the cabin, the intercourse would have been as easy and more safe. When, therefore, her Majesty had the means of indulging her passion in security, and had disregarded those means, was there the same presumption of guilt as if she acted with more caution? All that remained was the presumption that the sudden elevation of Bergami was owing to a criminal attachment. But if the scandal occasioned by his elevation were the ground of this bill, he wished to know, when the Queen carried him to the courts of Turin, Bavaria, Baden, and others, why that time had not been chosen for introducing the measure? In the first place the scandal was then more recent, and it was also known that the longer a person continued in a scandalous situation, the more reconciled people's minds became to that scandal. Were the Noble Lords opposite ignorant of the facts at that time? Would any man believe that Barbara Kress's communication did not arrive in this country till she herself made her appearance? Where

had the charges slept for the last three years? If Ministers were in possession of facts, and believed them to be true, what other supposition could be formed of their backwardness to institute this prosecution, but that they were willing to connive at the alleged misconduct of her Majesty while she remained abroad. He should now beg leave to say a word or two on the expediency of this bill. Their Lordships knew that the measure had not been deemed expedient while the scandal was fresh: in the second place, it had not been thought expedient during the three years that the Princess of Wales resided in Italy, though ministers during that time were in possession of all the evidence. But the expediency of the measure had broken like a new light on the minds of his Majesty's ministers the moment the Queen landed in this country. Now he must say, in the first place, that nothing could be more unfair than the argument of his Noble Friend on the 2d. reading of this bill. (*hear, hear.*) If the object to be accomplished by a legislative measure were not desirable, he appealed to the experience of their Lordships, whether it was not always customary to vote against the 2d. reading of a bill on this principle; he maintained that their Lordships were now about to vote, both on the question of expediency and of guilt. Here was an instance of the injustice to which the Queen had been subjected; their Lordships drew an indictment, opened the evidence for the prosecution, and after the defence had been made, they shaped the charges into another form, to which they proposed not to adhere, because they might find it necessary to modify it in consequence either of things proved, or of things not proved. If this preamble were not proved to the utmost letter and extent he was no honest man in his judgment who could vote for the second reading of the bill. (*loud Cheers.*) Before he went a step further into the question of expediency, he wished to make one observation on the conduct of the prosecutors in this case. It had been well asked by a Noble Friend below him, why the prosecutors had not examined Dr. Holland; but he would go a step further, and would ask if the Milan commission had been established for an honest purpose, if it was not bound to report all the evidence that made for the Queen as well as all the evidence that made against her? Now, not having had the honour of seeing the contents of the Green Bag, he could not say how much exculpatory evidence there might have been in it to set off against the accusations it contained. Their Lordships had judged of the evidence; the country also had judged of the evidence and the prosecution, and considered both to be a snare; the public having watched this evidence, were judging not only of it, but of their Lordships' conduct. Did it follow necessarily that the public were wrong

in the opinion they had formed? Were there no presumptions against the prosecution? Was there no presumption in favour of the Queen to be found in her coming over here to meet the charges of her enemies? When, therefore the public were watching their Lordships' conduct, would they fail to look at the conduct of her Majesty's prosecutors? —Would they not see that many individuals in that house, who were to be the Queen's jurors and judges, were also her prosecutors? Would they not believe that her Majesty had to contend, amidst the other difficulties in which she was involved, with the wide-spreading influence of the court? Did their Lordships suppose that the public would overlook these things? Was it nothing for the public to know that some peers, whose names he forbore to mention, would come down to that House to give a verdict of guilty, and not to mitigate, but to aggravate, the evidence against the accused, without having heard one word of the defence? (*Hear.*) Prosecutors were here seen erecting themselves into judges; and others—he trusted they were not under the influence of these prosecutors—who had not listened either to the evidence or to the counsel for the accused, were also to act as judges. Did their Lordships suppose that these things could have no weight with an honest, upright, and enlightened public? He implored them to consider these suggestions, if they were desirous to maintain unimpeached that character of impartiality and integrity which their decisions had hitherto commanded. He had now but one other subject on which he was desirous to detain their Lordships a few moments, and that was the question of the divorce clause. He was decidedly against the second reading of the Bill, either with or without that clause; and, indeed, whether it was excluded or retained, he conceived that the disadvantages would be nearly equal. If it were intended to exclude the divorce clause, he saw the most frightful consequences; and of these the most fearful and the most inevitable was the degradation of the King himself. (*Hear, hear.*) Every sentiment of human justice, every duty inculcated by our religion—every institution of our laws—every practise of the constitution—the Divine ordinances themselves—all tended to inculcate a doctrine which pronounced for the impossibility of a separation in this case, if her Majesty was innocent. His Lordships proceeded to insist, that their Lordships, upon the present evidence only, could by no means proceed to pass this Bill. He had heard that the divorce clause was proposed to be omitted. But how was this to be effected in justice? If the Queen was really guilty of the crimes imputed to her, why should not the divorce be pronounced for, unless it was meant to be said, (which surely never could be argued,) that however bad she (the Queen)

was, she might be good enough for the King? But let the House look at the case in another light. When Noble Lords had endeavoured to point out the extreme injustice, and the unhappy consequences, which must arise from their passing a divorce Bill, under possible circumstances of imputation against the other party, they were met by others of their Lordships, who said, "Don't all these consequences happen in all divorce cases, almost? and if you were to prove all this, where will you be able to pass any divorce Bill?" He was sorry to trespass farther, but one word he might be allowed to offer upon this point. Now, in the first place, he apprehended that, with respect to a divorce bill, they must have a party before them. Was it just to the King, he would ask, was it just to his Majesty himself, that he should not be heard by counsel, against or in the behalf of the dissolution of his own marriage? Was it just to her Majesty, that this marriage should be set aside—that such a sentence should pass against her, unheard? Had they heard her case upon this point argued at their bar? No such thing; no counsel had been called for this purpose. If, however, this measure really came before their Lordships as a divorce-bill, the other party must be considered to have presented himself at their bar. In that light, he came there with a previous knowledge of all preceding circumstances; he must be cognizant of his own case; he must come before them with clean hands: he must prove that case; but, above all his own conduct must be unexceptionable and perfectly pure. (*hear.*) He was to be looked upon as coming with that knowledge, and quite prepared to see it stand or fall as the facts of his case were made out for or against him. Was it so, here? He maintained that it was no such thing. If the divorce clause, in this case, was to remain, it would be to the prejudice of any other person against whom a bill of divorce might be hereafter presented. Why was her Majesty to be excluded from the benefits of pleading all these facts, which might well be heard against a measure for divorcing her from her marriage, her state, and dignity? Why was she to be precluded from recrimination, in a case which their Lordships were told admitted of it? Why was she precluded from proving to be collusion and connivance, on the part of those who were her persecutors, manifested almost from the time she went abroad, and above all at St. Omer's, when they made her the infamous offer of a large bribe? The bill under their Lordships' consideration was altogether an anomalous bill: at one time it was termed and treated as a divorce bill; at another, as a bill of Pains and Penalties; at one period, it was stated to be a bill for the relief of his Majesty, as against his wife, the Queen Consort; at another, her Majesty was con-

sidered as the wife of the state, (if he might be allowed the phrase), and accordingly they were told that it was the state which was to be relieved. His Lordship then proceeded to consider the measure as connected, not with the Queen as an individual, but with the Queen as related to the state; with her Majesty, as the Queen Consort only; as the wife of a husband aggrieved under the ordinary circumstances of a divorce case. Considered, therefore, as an act which it was proposed to pass, as a national measure, he must still protest against it, as a bill of divorce in this case. Let them suppose a husband who had withdrawn his protection from his wife—who had separated himself from her—who had given her a license to travel and reside in foreign parts—who had withdrawn his countenance from her—marking with displeasure any of his friends, or subjects, who might have shown her any common attention or civility;—should not he be required on applying for a divorce, to prove his case; and should not she be permitted to be heard against him, to show why his own conduct had not entitled him to this prayer? The question, indeed, had been put before. There would be, in this case, at least a possibility of recrimination; and supposing the circumstances pleaded in the course of that recrimination to be made out, in truth he wanted to know whether the state and the nation would be entitled to treat her Majesty as a woman justly and properly divorced, degraded, and dishonoured? The Noble Lord, after one or two other observations, adverted to the address which had been voted by the House of Commons, praying her Majesty to give up the point of the Liturgy; in which, we understood him to contend, they, by implication, commended her past conduct, and approached her as the Queen Consort. That address had the support of his Majesty's Ministers, as well as a large proportion of the Lower House. It could not fail to have had its weight with the country,—as coming from whom?—from persons in possession of all the facts of this case. Such a proceeding, or one analogous to it, in the case of husband and wife, would be proof, and good proof. She was, in some sort, as he had observed the wife of the state; and so considered, the state itself had that ground to urge against the bill, which, in the ecclesiastical court, would be a most effectual, complete and entire bar against a divorce. Upon every principle, therefore, whether the party were considered as the husband individually, or the state collectively their Lordships, in passing this Bill of Divorce—for such it was—would be committing a great and serious irregularity, independent of all other considerations of policy or expediency. Their Lordships had here, besides, the knowledge that the prosecutors, some of whom were also judges in this instance, the

prosecutors in this great case themselves, had pledged their interests in the support of the bill. These facts, then, they were in possession of, and now they were called upon to pass the Bill for the honour of the country.

Why, it was too monstrous a proposition—too palpable a delusion; it would be, indeed, the grossest of insults upon public understanding, if it were not met, as the fact really was, by the almost universal detestation, scorn, and hatred of the people. In himself, he was most anxious upon this deeply interesting question. The feeling of the country upon this Bill was too public, and too well known, to make it necessary that he should direct their Lordships' attention to it: but he could not help deprecating the great injustice that would be brought upon the Queen, if they passed a measure which must necessarily involve the suspicion of her guilt, and that upon such evidence as had been laid before their Lordships. If the Queen had been called to their bar, on an impeachment by the Commons, and their Lordships had condemned her, she would have had, then, the opportunity of hearing every thing which could be alleged against her, and of hearing them established in proof; and she would have had the advantage herself of pleading all such acts and circumstances as he had, in the course of his speech, adverted to; and these, in the last moment, previously to the decision of the house, their Lordships would have considered, received, and taken in diminution of punishment. Were their Lordships prepared now to hear counsel or herself in mitigation of punishment, at their bar, in the event of her condemnation? Were they prepared to enter into a fresh discussion upon the evidence to be adduced in recrimination, or to listen to the arguments of counsel upon bringing it forward? Still more, if they considered such a course necessary to the ends of justice, were they in a situation to adopt it? The line of proceeding already taken was no inconsiderable aggravation of the ills to which they had already exposed her Majesty. She was subject to the infliction of degradation, and of pains and penalties; but the opposite party was not visited by the production of such evidence as might be urged in mitigation. He asked no favour; but he demanded that the same justice should be strictly extended towards the Queen which their Lordships never would withhold from the meanest subject. The Noble Lord then replied to some remarks which had fallen from other Noble Lords with respect to the addresses received and answered by her Majesty, upon which they had founded a charge against the Queen, partly with a view to discredit her and her cause, and partly for the purpose of injuring her defence with the sober-minded classes of the community. When his Noble

No. 59.

Friends, however, expatiated on the danger of this sort of homage paid to her, apparently connected (as they said she was) with a body of persons who were supposed not to be too well affected to the government, did they not at the same time, consider what must be the necessary consequences of a bill of this nature?—that, if the Queen were degraded, the people, already eager and ardent in her favour, would be rendered desperate? He did indeed, trust that her Majesty and those who were said to be thus connected with her, would have the virtue to avoid such courses; but, he would ask, was it not to give an opportunity to persons really disposed to undermine the constitution in church and state, to degrade, by their sentence, the Queen Consort; and where so general and eager a sentiment of affection for her pervaded throughout the country, was not such a measure calculated to give a wrong bias to public feeling, and a dangerous incentive to popular disaffection? (*Hear, hear.*)

The cries of "question, question," and withdraw, withdraw," now became so general and so continued, that we could only collect, from a conversation which passed across the table between Lord Holland and the Earl of Liverpool, that

LORD HOLLAND thought the usual course was, for the Noble and Learned Lord on the woolsack, first, simply to put the question, and report his own opinion as to whether the contents or non-contents had it: then, if any lord was dissatisfied with that report, he might call for a division.

The EARL of LIVERPOOL contended that it was a thing of course that strangers should withdraw, and then he suggested, the better course would be, for the Noble and Learned Lord at once to put the question, which would inevitably be immediately followed by a division.

LORD HOLLAND explained, and at 8 o'clock the space below the bar was cleared of strangers; much confusion occurring, by reason of their numbers, in getting out of the House.

It took nearly three quarters of an hour to ascertain the numbers, which were announced to a large body of strangers waiting in the lobbies at a quarter before 4 o'clock. They were the following:—

Contents ..... 123

Not Contents ..... 96

Majority ..... 28

The House then immediately adjourned till to-morrow at 10 o'clock.





Saltersford.

Kenyon  
Sherborns  
Berwick.

ARCHBISHOPS.

Canterbury  
Tuam

York.

BISHOPS.

London  
St. Asaph  
Worcester  
St. David's  
Ely  
Chester  
Peterborough  
Landaff  
Cork and Rosse  
Gloicester.**House of Lords,**

TUESDAY, NOVEMBER 7, 1820.

The House met at ten o'clock.

On Lord Holland's name being called, the LORD CHANCELLOR observed, that he had received a letter from the Noble Lord, stating that he was prevented by indisposition from attending at the time of the call, but that, if able to come out, he would be in his place in the course of the day.

While the list of their Lordships was calling over, the officers of the House cleared the bar. Mr. Gurney, the shorthand writer, attended in his place, and all the arrangements necessary for the accommodation of Counsel, when they appear at the bar, were made.

The EARL of LAUDERDALE rose when the call was concluded, and said he observed, he knew not for what reason, that these preparations had been made at the bar which were usual when Counsel addressed their Lordships. He was not aware of any order having been made for the attendance of Counsel, and did not understand how those preparations could be made without an order. He therefore rose to ask for information on the subject.

The LORD CHANCELLOR was not able to give the information desired. He could only assure the Noble Lord and the House that the preparations to which he referred had not been made by his direction, and that he had had no communication with any body on the subject.

Mr. Quarme, the Deputy-Usher of the Black Rod, was called to the bar.

The LORD CHANCELLOR.—Call the Usher of the Black Rod.

The EARL of LAUDERDALE (a short pause having taken place) hoped that the recurrence of such a circumstance would be prevented, by directions being given that no

arrangement of the kind should be made without the order of the House.

Sir Thomas Tyrwhitt, the Usher of the Black Rod, soon after came to the bar.

The LORD CHANCELLOR.—The House has observed preparations for the accommodation of Counsel at the Bar. Can you inform them why these preparations have been made?

Sir Thomas Tyrwhitt.—They have been made in consequence of an intimation from the Attorney-General that he was coming to the bar to plead. At least it was in consequence of information to that effect being given to me by the door-keepers that I gave directions for the preparations.

The LORD CHANCELLOR.—You are now attending; can you inform the House by whose orders the arrangement which has taken place at the bar was made?

Mr. Quarme.—I cannot my Lords; when I came into the House I found the bar in the situation in which it is at present.

The LORD CHANCELLOR, from what had passed, thought it necessary to give this intimation to the officers of the House, that they were not in future to take any step of this kind until an order was first made by the House.

EARL GREY said a few words, which were not heard below the bar.

LORD DACKER rose and stated that a Protest from her Majesty, against the proceedings of the House on the Bill of Pains and Penalties, had been put into his hands. (From some interruption at the bar, and the Noble Lord dropping his voice, we here, and at subsequent parts of his speech, lost a portion of what he said.) He ought perhaps to apologise for not having stated his opinion on the subject of the Bill in the course of the debate on the second reading. But it would probably be considered as a sufficient explanation of his not having spoken on that occasion when he stated that his opinion was one which could not be affected by any thing stated on either side at the bar, and was formed totally independent of any circumstances which might have appeared in evidence in this unfortunate case. His objection was to the principle of the measure—to a bill of pains and penalties being introduced for alleged immoral conduct, said to have been long committed. To a proceeding of this kind he objected, as altogether unjust and unconstitutional; and therefore it was not necessary for him to enter into any discussion on the evidence. Having stated this, he had only to observe, that the Protest of her Majesty being placed in his hands, he should detain their Lordships no longer than the few moments necessary to state its purport. He concurred in the force of the objections taken by her Majesty to their Lordships' proceeding. The first was one which had been urged before—namely,

the impropriety of the same persons sitting and voting on her case as jurors and judges who were her accusers and prosecutors. He knew that this was a practice not unprecedented in that House; that it occurred in other cases; and that, therefore, it was one which must be left to the opinion, to the sense of decorum and duty, of individual Peers. It was one which he did not approve. In this case it was now before the public, and the country would pronounce judgment upon it. He had considered the practice a dangerous one, and in that opinion he was confirmed by what had happened. Her Majesty also complained that some individuals, who had voted in the majority against her, had not attended the House during the whole of the proceeding, and had not heard the evidence adduced in her defence. (*Hear, hear.*) Upon this he should only observe, that he would not say such persons had no right, if they could answer for such a practice to their conscience, or reconcile it with any principle of feeling and delicacy. The part of her Majesty's Protest he had described related to the proceedings which had already taken place in that House. She next protested that she is wholly innocent of the crime laid to her charge. She makes her Protest in the face of God and the country; and, having done this, declares that she refrains from all further appeal to that House on any of its proceedings, reserving to herself the further vindication of her character, if any proceedings of a similar nature should be instituted in another place. He would now read to their Lordships the Protest which had been put into his hands:—

### THE PROTEST.

"CAROLINE REGINA.

"To the Lords Spiritual and Temporal in Parliament assembled,

"The Queen has learnt the decision of the Lords upon the Bill now before them. In the face of Parliament, of her family, and of her country, she does solemnly protest against it. Those who avowed themselves her prosecutors have presumed to sit in judgment upon the question between the Queen and themselves. Peers have given their voices against her who had heard the whole evidence for the charge, and absented themselves during her defence. Others have come to the discussion from the secret committee with minds biased by a mass of slanders, which her enemies have not dared to bring forward in the light.

"The Queen does not avail herself of her right to appear before the committee; for to her the details of the measure must be a matter of indifference; and, unless the course of these unexampled proceedings should bring the Bill before the other branch of the legislature, she will make no reference whatever to the treatment experienced by her during the last twenty-five years.

"She now, most deliberately, and before God, asserts that she is wholly innocent of the crime laid to her charge, and she waits, with unabated confidence, the final result of this unparalleled investigation."

LORD DACRE, after reading the address, said he felt it to be his duty to move that it be now received by their Lordships.

The LORD-CHANCELLOR—My Lord, according to the rules and regulations of your proceedings in all matters of accusation before you by Bill, the person who is placed in the situation of the accused, after the second reading of the Bill, has a right to be personally heard. That was a doctrine which was laid down, and prevailed in Atterbury's case, and several others. Now, what is the object of this document, which is now laid before this House from the Queen, and which is called a Protest? I think it right, if it is to be considered as the address of the individual sending it to the House, that it should be taken notice of and received as such, upon the same principle as the personal application of the accused, in Atterbury's case, was received. But, strictly speaking, it cannot be received as a "Protest," according to the rules and regulations of the House.

LORD DACRE was perfectly aware that formal difficulties might prevent the reception of the paper; but, as the Queen, in point of strict form, was entitled to be heard in person at the bar, he hoped their Lordships would have little inclination to press on a party in the situation of her Majesty, who was perhaps unequal to the forms of speaking, so as to be able to address the House with satisfaction to herself.

The EARL of LIVERPOOL had no objection to the paper being received as the address of the Queen, provided a formal entry were made in the Journals to that effect, so as to prevent it from being quoted as a precedent of a protest having been received by their Lordships from a party under accusation. It might be entered on the Journals, not as a protest, but as a representation of what the feelings of the Queen were, and an address which she would have made had she been personally present.

The LORD-CHANCELLOR repeated his opinion that this document could not be received as a protest. On the matter it contained he wished to make no other observation, farther than to say, that he did not know upon what principle any person could appear at the bar, and make comments on the decision of the House, or on the conduct of individual peers. He agreed that it was very proper to receive it in some way or other, and he thought it might be received under the name of an address, but certainly not of a protest, which might form a precedent for individuals protesting against the proceedings of the House.

The EARL of LAUDERDALE agreed with the Noble and Learned Lord on the Woolsack that this protest should be put, in some way or other, on the Journals. It should stand there as the address of the Queen, without the addition of any other words in the description. But, considering it as an address, he begged to ask whether their Lordships thought it one which, if delivered at the bar, would have been received by the House without interruption. He found that it was said in that paper, that Noble Lords came from the Secret Committee with minds biased by a mass of slanders. How could her Majesty, or her Majesty's advisers, know that all the evidence which had been brought before the Secret Committee had not been laid before the House? This was one of the most direct calumnies ever vented against the House. He for one had sat upon the Committee, and he declared before God, that his opinion of the Queen's guilt had arisen from her own defence. Was it possible that their Lordships would permit themselves to be thus slandered? With all due respect towards the illustrious personage who was under such circumstances in that House, and with every feeling of delicacy towards her as a female, he could not help making some observations on the protest she had thought proper to present—so powerful was his sense of duty. He begged and implored their Lordships to recollect their own dignity, and while they were permitting any statement to go upon their Journals, to take care that it should not convey any stigma upon their own character.

The DUKE of NEWCASTLE, conceiving that he had been attacked by this protest begged to say that he had considered from the first if any peer were casually prevented from attending on any occasion, he was not to be therefore deprived of giving his vote, as he had a full opportunity of reading the evidence on which alone the judgment of the house was to be formed. He could not conceive that it was ever intended by an *ex post facto* law to deprive such of their Lordships as might be unavoidably absent of the right of voting. He was determined to maintain all his privileges, and he had not considered that their Lordships were precisely in the si-

tuation of jurymen. He did not see any thing which rendered it incumbent on him to waive one of the most valuable of their privileges, and abstain from giving his vote. Conscious of the integrity of his motives, he had come down to his duty without regarding any aspersions which might be thrown upon him, either in that house or out of doors.

LORD SOMERS said, he had not attended during the whole of the investigation, in consequence of the intervention of some unforeseen circumstances. The part he had not heard was but a small part, and his hearing not having been very good, he had removed to a situation near the bar, where he then stood, in order that he might come to a decision upon the most impartial view of the evidence. He had to offer in excuse for giving his vote without having heard the whole of the case, that at the commencement it had been stated that the casual absence of Noble Lords should not prevent them from voting. He understood that Noble Lords, though occasionally absent, were to be allowed to vote, and, if allowed, he thought that in such a case they were called upon to give an opinion. Having said thus much, he would now observe that he had never attended any judicial proceeding in which he was more perfectly convinced of the guilt of the party than, in the present case, he was convinced that the illustrious person was guilty of the essential parts of the charges brought against her.—He lamented as much as any one that such was the conclusion he had been forced to come to; but he was called upon as a Peer of Parliament to do his duty, and he had done it upon the most decided feeling and conviction.—As he had had occasion to state that he had not been present upon the whole of the evidence, he might perhaps be allowed to state the grounds on which he had given his vote. (*cries of "no, no."*)

EARL GREY said the question before the house was, whether their Lordships should or should not receive the paper presented to them—a question which had nothing to do with the Noble Lord's sentiments of the bill. (*hear, hear.*)

The EARL of LAUDERDALE thought his Noble Friend behind him entitled to proceed. He was only showing how unfounded the slanders were which had been levelled at him as well as at others of their Lordships.

LORD SOMERS conceived he had a right to state his opinion without being opposed by clamour.

EARL GREY observed that the simple statement of an opinion was very different from entering into an argument in support of it.

The DUKE of ATHOL said a few words in reference to what had fallen from Lord Somers, and, as we understood, also on his own absence during a part of the proceed-



ings; but, from the confusion in the House and at the bar, we could not collect the purport of his observations.

LORD SHEFFIELD regretted that he had been absent during any part of the proceedings, but justified his voting on the ground that his absence had been caused by temporary illness.

The EARL of CARNARVON then addressed their Lordships, but in a tone of voice so low and indistinct as to be almost inaudible below the bar. His Lordship's speech appeared to us to be to the following effect:—The investigation in which they had been recently engaged was so important in its nature, and so momentous in its consequences, as to render it imperative upon all whose fate it was to decide upon it, to attend during every day, and even every hour, in which it was proceeding. He did not intend, however, to reflect severely upon those who had only absented themselves from the House for two or three days during its continuance, though their absence even for a single hour during an important part of the defence might have prevented the occurrence of a total change in the opinions which they had adopted: still he could not help saying that they ought to have considered the probability of such an occurrence, before they determined upon voting in favour of the Bill. Much, however, in such circumstances as those under which the Queen laboured, must be left to the discretion of their Lordships; and he was far from presuming that such discretion had not been wisely exercised. He was willing to admit that the paper, which had just been presented to their Lordships contained some expressions which were unguarded, and which it would have been better to have omitted; but, when their Lordships considered the peculiar and painful situation in which her Majesty at that moment stood, he was sure they would extend the utmost latitude of indulgence to every expression of which she might have made use. When their Lordships said that they should have been better pleased had the paper been more carefully and accurately worded, they ought to recollect that it was written under circumstances which almost rendered it impossible for the human mind to come to an impartial judgment. For himself he declared that no individual could have entered upon the present investigation with a greater desire to do equal justice, according to the best principles of British jurisprudence, than he had: still, if he had been on the Secret Committee, he should have believed himself to have been, from the infirmity of human nature, incapable of acting afterwards as an impartial judge. Had he been the Counsel for her Majesty, which he thanked God that he was not, he should certainly have advised her to make no further appeal to their Lordships' House, which he

trusted that he might still call an august assembly, in spite of all that had been said and done with in it. (*Hear, hear.*) Of all the national calamities that which had gone on of the House on that day was not the least. Those declarations, which went to assert a right to condemn the Queen without hearing the whole of the evidence, were calculated to induce their Lordships to trample on the vital principles of justice: for if there was a vital principle by which justice, and justice administered by the laws of Britain, was distinguished, it certainly was this—that no person should be found guilty except by oral evidence, or until he had been heard fully by himself or by counsel on his behalf. There were, however, some of their Lordships who acted in defiance of that hitherto universally acknowledged principle: there were some among them who had condemned their Queen upon written testimony, without having heard the voice or seen the face of a single witness, without having read or attended to a single word of her defence—a proceeding which amounted to a complete denial of that justice to which the most degraded criminal in the country was by law entitled: and yet a Noble Duke could come forward and say that, to deprive him of the power of giving his vote under such circumstances, would be to pass an *ex post facto* law of the most alarming and extraordinary nature—an assertion which came, by the-by, with peculiar grace from a man who wanted to exercise his vote in condemning his Queen by an *ex post facto* law, which first created the crime, and then punished it. That the Noble Duke, in the ardour by which a young and honourable mind, unaccustomed to the trammels of law, was sometimes distinguished, should, in his anxiety to perform his duty, overlook the first principles of law, might be considered only natural; but it was with regret that he had heard a Noble Lord, in the evening of an useful and honourable life, declare that, though he had not been present during the whole trial, he would accord the severest possible measure of punishment to her Majesty, thus degrading the House, by judging upon written evidence, into a court like Doctor's Commons. He would ask their Lordships why had the Noble Earl opposite moved, at the commencement of this proceeding, that the House should be called over, and that no Peer should be allowed to vote by proxy? Was it not because no Peer was entitled to vote who did not personally attend the investigation of the case? When the Noble Duke claimed the right of voting without hearing the defence, he was, in fact, claiming to vote by proxy; it was to all intents and purposes the same thing. He remembered well the words of the Noble Earl opposite (the Earl of Liverpool): when he moved the call of the House, he said, most emphatically, that he trusted no

Noble Lord would presume to give a vote on the case who did not hear the whole of the evidence. (*Hear*) The Noble Lord on the woolsack, too, had assented to the principle, though he had somewhat qualified its application: he had said that, if he were to be two or three days absent during the proceeding, he should not consider himself justified in voting for the bill. (*Hear, hear.*) But did either of these Noble Lords ever contemplate that any Noble Peer, who should be absent, not days, but weeks, who should not hear one word of the defence, should come down and say that he was not only ready to vote for the bill, but for the severest penalties which it contained? (*loud cheers.*) He thought that, considering every thing, this was a case in which the House could not relax too much from any strict rules of practice in favour of the accused party. He trusted that there was nothing so informal in the paper as to require its rejection. The contents of it, as far as respected matter of fact, were strictly true: they were such, that if their Lordships did not feel the force of them, he was sure that the country would. He wished to God that they could be soon forgotten; for until they were, their Lordships could never, as a judicial body, regain that high station which they had hitherto occupied in the country and the world, and which they could never lose without injury to the best and dearest interests of society.

**The LORD-CHANCELLOR.**—The Lord who at that moment had the honour of addressing their Lordships had not been absent, as they well knew, any day during the whole proceeding; and therefore nothing in her Majesty's protest which reflected upon those who, though not present during her defence, had declared her guilty, could be considered as applying to him. He had not expressed any disinclination to receive the protest of her Majesty; neither had he seen any disinclination in the House to receive, in some form or other, what her Majesty had offered to their notice. The view which he took of the matter was this;—Her Majesty had thought proper to draw up a protest, reflecting on the dignity of the House and of several individual members of it, which could not, on that account, be regularly received. It might, however, be received as the address which her Majesty, in that stage of the bill, had a right to make to their Lordships. But as, in a case of that kind, the party would be stopped if, in addressing their Lordships, he used language which broke in on the dignity of the House, or reflected on the individual conduct of any of its members; so, if their Lordships received that protest (as, in his opinion, they ought to do), they were bound to guard against its being made a precedent for stating in that way matter reflecting on the conduct of individual peers, which could not be allowed to be stated at their bar. For

himself, not having been absent during any of the proceedings, he could have no personal interest in asserting the right of the absent to vote. He must, however, remark, in answer to the argument of the Noble Earl near him, that in cases of impeachment, though proxies were not allowed to vote, those Peers were allowed to vote who had not heard the evidence. One circumstance called for particular remark. Observations had been made on the conduct of those Noble Lords on whom the house had imposed a duty by making them the constituent parts of a committee. No man could feel more anxious than he did to withdraw himself from these proceedings altogether, if he had thought that this could have been done consistently with his duty. He, however, had thought that he was not at liberty to decline taking a part in the proceedings. He would never shrink from the avowal that he had been one of those who humbly recommended to the house to institute the present inquiry; and, looking back to what the members of the committee had been called on to do, he felt that he should have violated his duty to the house if he had retired, or declined, giving his opinion on the present measure. He felt that, if the house were to object to receive the opinions of those persons on whom they imposed a duty to assist the house in its deliberations, they would act in violation of those principles by which their proceedings had been hitherto governed. For the paper before them, he had not only no objection to its being received, but he would implore the house to receive it, taking care at the same time that a dangerous precedent should not be established by admitting that on their journals which could not be regularly allowed to be stated at their bar. To guard against such evil he thought it might be right to come to a resolution framed in some such words as these: "That this house, notwithstanding the exceptionable matter in some parts of the paper now presented, does nevertheless, under all the circumstances of the case, consent to receive the same as the representation of what her Majesty has further to state to the house in the present stage of these proceedings." A resolution like this would, he thought, save the dignity of the house, and guard against an injurious precedent being established, while the object of her Majesty would be obtained by the insertion of the paper on their Lordships' journals.

**LORD DACRE** explained.

The **EARL of DONOUGHMORE**, though for some time past he had been little in the habit of agreeing with his Noble Friend who had lately spoken, most cordially concurred with him on the present occasion. With respect to the paper under their Lordships' consideration,

he trusted not only that it would not be rejected, but that every sort of facility would be given to its reception and insertion in their journals. The Noble and Learned Lord on the woolsack had the same feeling, with respect to the protest of her Majesty, that he had. He (the Lord-Chancellor) had, very properly, for the sake of preserving order in their proceedings, called their attention to the difficulties, in point of form, which lay in the way of its reception; but, not content with doing that, he had at the same time shown the facilities which could be afforded in order to place it on their journals. He agreed in the propriety of its being received, and did not see any thing in the matter which had been objected to that need to have called on Noble Lords to start up in defence of their conduct. He had been a member of the secret committee: on that account he had nothing to say in the way of a defence. He went into that committee with his eyes open. He did not object to appearing in the secret committee; nor did he, from having acted there, feel precluded from subsequently doing his duty in the house. It was his opinion that whatever a person under accusation thought necessary to his defence ought to be received. But was there any thing new in that which was stated by the illustrious individual whose case was now before them? Was there any one ground of objection that had not been stated before—that had not been bandied from one side of the House, and urged and answered by the counsel at the bar, for and against the bill, from the beginning of the proceedings? Her Majesty asserted her innocence; so she had done from the beginning. She objected to those who had served in the secret committee sitting as judges on the case in the House: so she had done from the beginning. She objected to their Lordships, considering them to be prosecutors, deciding on the case as judges: this had been the *gravamen* of her case from the beginning.—The question now started was, whether those Noble Peers ought to vote who had not heard the whole of the evidence? It was not for him to defend those Noble Persons who had served in the committee, or those who had voted, not having heard the whole of the evidence. Their Lordships had heard, he would not say the defence of those Noble Persons, but their justification; and to that he would not add a word either one way or the other. He hoped the paper would be received, and placed on their journals.

The Lord-Chancellor again read his resolution, after which

The EARL of LAUDERDALE said a few words in a low voice: he was understood to move that the resolution proposed by the Lord-Chancellor should undergo the change of a few words in its commencement; and that it should run thus—"Notwithstanding the exceptions which the House might justly

take against part of the matter contained in the paper offered to the House by her Majesty, the House does, nevertheless," &c. &c., as before.

EARL GREY.—As he was of opinion that the House had committed an irreparable mischief in allowing this bill to be read a second time, it was not his intention to offer any fruitless opposition to it in its later stages, even though their Lordships compelled him to attend personally in his place until it was carried through the third reading. On the present question, however, he should say a few words, because, though he thought the amendment of his Noble Friend to be almost unessential and quite superfluous, he could still wish the grounds on which he acceded to it to be rightly understood. If any exception could be taken, with justice, by the House, to the paper which had been presented to it, it was to the right which it exercised of commenting upon what had occurred within it. But if it were meant to insinuate that the exceptions which her Majesty had taken against the House were ill-founded and unjust, he must deny the truth of the insinuation. He thought the exceptions to be well founded and most just; (*hear*;) and especially with regard to these Noble Lords who had reconciled it to their consciences, and deemed it consistent with their honour to give a vote upon the present question, after confessing that they had heard the whole case of the prosecution, and not a syllable of that of the defence. (*Hear*.) He had no right to find fault with those Noble Lords; they were the best judges of their own conduct, and had to answer to God and their consciences for the course which they had thought it proper to pursue. All he could say on this subject was, that it did appear to him a little extraordinary, when that house had declared its opinion upon a question of this nature—that it was improper for any peer to vote by proxy—that peers should be found acting contrary to that principle themselves by appearing as their own proxies, (*hear*;) and voting upon a question which they had not heard, and their not hearing of which would have been a reason for excluding proxies. He thought he might congratulate the Noble Duke (the Duke of Newcastle,) too, upon the objection which he had taken to an *ex post facto* law. It was a little singular, however, that, while he was complaining that an attempt was made to deprive him of his right of voting by an *ex post facto* law, he was himself voting upon an *ex post facto* law, of all others the most objectionable, and the most severe that could be imagined. (*Hear, hear*.) For himself he must repeat, that he considered the exceptions which her Majesty had taken against the Bill to be just. The exception which she had taken against her accusers, forming part of her judges, was just, though

the Noble Lord on the woolsack had defended it by precedents, (*Hear, hear.*) The passage which referred to those of their Lordships who had been on the Secret Committee he did not understand in the offensive sense in which the Noble Lord on the cross-bench had taken it. It merely stated, that they were exposed to such a bias, that it was impossible for them, from the frailty of human nature, to act with impartiality. If it had been proved that such statements as had been presented to that Committee had been presented to any jurymen before he was put into the jury-box and sworn, it would have disqualified him from acting as a jurymen; and therefore he must maintain that the exception which her Majesty had against the members of the Secret Committee forming part of the tribunal who were to decide upon her guilt or innocence, was fully just. With this explanation he would not object to the introduction of the word "justly" into the resolution, it being clearly understood that it had no reference to the subject-matter of the protest itself. (*Hear*)

LORD REDESDALE said, that if objections were taken to those persons who sat on Secret Committees subsequently voting on the measures which had resulted from their labours, he should consider that all the principles of legislation were violated. He could conceive nothing more mischievous than suffering it to be understood that, because a Peer had been a member of a Secret Committee, he was, therefore, disqualified from voting. The simple question before their Lordships was, whether this Bill should be read a second time or not? And in coming to that vote the Members of the House had been solely guided by the evidence, without any reference to impressions which might have been obtained elsewhere. With respect to one of the statements—he alluded to that which referred to the Members of the Secret Committee—it was an imputation not only absolutely false, but scandalous.

The LORD CHANCELLOR then put the question upon the amendment, which was carried. The original resolution proposed by his Lordship, thus amended, was likewise put and carried.

The EARL of LIVERPOOL then moved "That the House do resolve into a Committee on the Bill, entitled 'An Act to deprive her Majesty,' &c."

The EARL of DARNLEY rose, and said he had no intention, in addressing their Lordships at the present moment, to occupy their attention for many minutes, after the long and able discussion which this subject had undergone, although there were many collateral points still open for observation. He would content himself, for the present, in conformity with the pledge he had previously given, with protesting against this, as he would do against

every part of this most unfortunate proceeding. He knew that some of their Lordships, after so much debate, were anxious to go into a committee on this bill; but he could now avoid stating on this subject that which he felt most strongly—he could not help calling on their Lordships, before they proceeded farther, to consider well the vote that had been yesterday given. That vote confirmed the opinion he had entertained with respect to the whole case, from its beginning to the present hour. Their Lordships had come to a decision on evidence which to him and to other Noble Lords was most inconclusive. He had attended every day and every hour during the whole of this proceeding, and, considering the testimony which was given at their Lordships' bar, he never could believe that, ultimately, the House would pass a measure which was unnecessary, which was defective with reference to the mode of proceeding, and which, finally, was not established by that conclusive, irresistible, incontrovertible evidence, on which alone it ought to stand. He could not avoid congratulating their Lordships on the division that took place yesterday, because, from the extraordinary manner in which the votes were given on that occasion, their Lordships and the public (as it should be) had an opportunity of analyzing that division. Arguing on the known infirmities of human nature, and on those alone, let their Lordships look to that division, and ask themselves, whether it was possible that a large proportion of those Noble Lords who voted for the bill yesterday could have come to the consideration of this subject with perfectly unbiassed minds? This, he thought, was a very important circumstance. It could not be forgotten that a large proportion of that majority was composed of the accusers themselves—a large proportion of it was constituted of individuals who had recently received favours from the crown. On this point he would state one fact, which could not but have considerable force: it was this—that 10 junior Barons, had said "Content," and 18 senior Barons had said "Not Content," on this question. Such was the fact; and he defied the common sense of man to draw any inference from it, except that the infirmities of human nature (perhaps the amiable infirmities) had had a very powerful operation in producing this decision. In addition to what had already been said on this subject, he begged to observe, that he understood the Noble Lord on the woolsack to have stated it as the clear understanding of the House, that any Noble Lord who, from bodily infirmity, or from any other cause, was deprived of the opportunity of attending during the progress of this proceeding, *de die in diem*, or, at all events, who was prevented, by circumstances, from witnessing the more material parts of this pro-





meo Pergami, and, in other respects, both in public and private, in the various places and countries which her Royal Highness visited, with indecent and offensive familiarity and freedom." He would stop here for a moment, because this was a distinct question from that of "the adulterous intercourse;" and he did so chiefly for the purpose of stating that, when they came to this part of the preamble, he would suggest that the word "*the*" should be omitted before the words "various places and countries." The ground on which this suggestion proceeded was evident. As the preamble at present stood, it applied to *all* places and countries which her Majesty had visited. This was not proved; but, if it were left "in various places and countries," that allegation was sufficiently made out. Instead of troubling their Lordships with any discussion on this point, he could refer them to different parts of the evidence in which the allegation was proved. This part of the preamble, as amended, would run thus:—"And whereas also, her said Royal Highness, whilst the said Bartolomeo Pergami was in her said service, further unmindful of her exalted rank and station, and of her duty to your Majesty, and wholly regardless of her own honour and character conducted herself towards the said Bartolomeo Pergami, and in other respects, both in public and private, in various places and countries, which her Royal Highness visited, with indecent and offensive familiarity and freedom; and carried on a licentious, disgraceful, and adulterous intercourse with the said Bartolomeo Pergami, which continued for a long period of time, during her Royal Highness's residence abroad," &c. This (continued the Noble Earl) was the *gramen* of the whole charge: here the case of adultery was distinctly stated. This was his view of the alterations that were necessary in the preamble. Leaving out the mention of orders of knighthood and titles of honour, changing the name, and omitting the monosyllable "*the*," appeared to him to be the only alterations that were called for. The better way would now be for the Noble Lord (Shaftesbury) to read the preamble, and, when he came to the proper places, the necessary alterations could be proposed.

The EARL of SHAFTESBURY proceeded to read the preamble. When he came to the words "Bartolomeo Bergami, otherwise Bartolomeo Pergami," it was moved "Bartolomeo Pergami be inserted in lieu therefore," which was agreed to.

The EARL of LIVERPOOL next moved "That the words 'obtained for him orders of knighthood and titles of honour' be omitted."

LORD GRENVILLE, as we understood, expressed an opinion that those words should be retained.

The EARL of LIVERPOOL did not think

the fact was sufficiently proved, although no doubt might exist about it.

LORD ELLENBOROUGH said, if the words were left out, the sense would be incomplete. It would then appear that her Majesty "bestowed upon Pergami other great and extraordinary marks of favour and distinction," no specification of which was given; but they came at once to the statement "that she conferred upon him a pretended order of knighthood." This would be absurd. They might strike out "orders of knighthood," leaving the other words, but to omit them all would create much difficulty.

LORD GRENVILLE observed, that the phrase "marks of favour and distinction," if there were no specification of them, might refer to circumstances quite distinct from those which were made subject of change.

The EARL of LAUDERDALE had strong doubts whether those words could be omitted with propriety. Their Lordships would recollect that the facts to which they related were strongly relied on in the course of this proceeding, as implying a connexion between the Queen and Bergami. Now, if these words were omitted, he would ask their Lordships, whether a great difficulty would not be created, in pointing out that particular circumstance, when future proceedings took place on this measure. Viewing the propositions in this light, he thought it was rather dangerous to omit the words.

The EARL of LIVERPOOL said there was great weight in the observations of the Noble Earl. The circumstance alluded to was certainly connected with the main facts of the case, and he was therefore somewhat inclined to give way to the suggestion: but as the circumstance of the Queen's having procured those titles and honours was not clearly made out, perhaps it would be as well to omit any mention of them.

LORD ELLENBOROUGH said, if the passage in the question were omitted, no proof would be left that any improper distinctions were ever granted to Bergami.

The amendment was then agreed to.

EARL GROSVENOR wished, before they proceeded any further, to know why the Noble Earl had substituted the name of Pergami for that of Bergami? on what account, public or private, had the Noble Lords opposite adopted that alteration?

The EARL of LIVERPOOL.—Because, in the diploma of a new order (a laugh) which has been regularly laid before your Lordships the name is spelled Pergami.

LORD KING was sorry the "alias" had been omitted. It was very desirable there should be an "alias" for Bergami, as there was already one for Sacchi, and another for De Mont.

The EARL of LIVERPOOL then proceeded to move that the word "*the*" should be omitted before the words "various places and

countries." His Lordship wished to call the particular attention of the House to this part of the preamble, as it was exceedingly important. The evidence fully bore out the allegation which formed this part of the preamble. It did not go the length of imputing direct adultery to her Majesty, but charged her with having "conducted herself towards Pergami in other respects, both in public and private, in various places and countries, with indecent and offensive familiarity and freedom." In proof of this he would first request their Lordships' recollection to what took place at Naples at the end of 1814, or rather the beginning of 1815, when the masked ball was given at that place. It appeared that her Majesty went to that ball in a hired carriage accompanied by her maid and Bartolomeo Pergami. This he conceived to be an exemplification of the offensive familiarity and freedom that were stated in the preamble. He need not put to their Lordships what their feelings would be if, in the month of April or May, any one of their female relatives went in a hackney coach to the Opera-house, accompanied by a butler and a chambermaid. This was a matter on which their Lordships' feelings could easily decide.

LORD ELLENBOROUGH (we believe) observed, that this fact was not clearly stated in evidence.

The EARL of LIVERPOOL said, that he would show presently that it was at the time to which he alluded, her Majesty had in her suite Sir W. Gell, Capt. Hesse, Dr. Holland, and another English gentleman, whose attendance she might have commanded; but in page 256 of the minutes it was proved by De Mont, (*hear, hear, from the opposition*), that her Majesty went to the masked ball in the manner he had described. The fact of her going to the theatre was confirmed by Dr. Holland in page 311; and with respect to the evidence of Louisa De Mont, he would say, that whatever feeling they might choose to attach to it, or however they might wish to throw it out of the case where it was not confirmed, still, where it was easy of contradiction, and not contradicted, he would maintain that it ought to be received. The fact in this instance was proved by Dr. Holland, as well as by Louisa De Mont. His evidence on this point were as follows:

"Were you ever at a masquerade at the theatre San Carlos when her Royal Highness was there?—I was.

"With whom did her Royal Highness go there? I was not aware till the following morning that her Royal Highness was there."

Dr. Holland (continued his Lordship) thus confirmed the fact of her Royal Highness being at the theatre of San Carlos that night. He did not indeed prove the company with which she was (*hear*); he said he did not know by whom she was attended (*hear*); but

he contended that the evidence of Louisa De Mont was sufficient for that point, and that the two witnesses were confirmatory of each other.

His Lordship here received some interruption, when

The EARL of HARROWBY rose, and stated that it was impossible for them to proceed, if his Noble Friend was not allowed to finish his statement.

The EARL of LIVERPOOL proceeded. He conceived it to be completely made out that there was an indecent familiarity and freedom in her Majesty thus going to the masked ball at Naples; but there were many other instances in which her conduct was equally improper. It appeared that she had suffered Bergami to dine with her in his courier's dress at Bellinzona, at Lugano, and at the Devil's-bridge. This was proved by Lieutenant Hownam, and the statement supported by Louisa De Mont. Another instance, in which the degradation was carried to an extent greater, if possible, than the last, was the festival held in the harbour of Syracuse, in 1816, on St. Bartholomew's day, in honour of Bartolomeo Bergami. If this was not degradation, he knew not what was. There was also the conduct in the boat from Como to the Villa d'Este, and at the Villa d'Este. There was next the theatricals at the Villa d'Este. Considering the rank and the age of the party, considering the persons with whom she acted, the character she performed, and considering that was in presence of more than two hundred, this part was a clear instance of offensive and degrading familiarity. There were minor circumstances of the same kind. The whole story of the pado-vanella was of this character. There had been some contradiction attempted to this: he thought it was Count Vassali who had spoken to it. But the utmost that he had sworn was, that he had never seen her Royal Highness in a pado-vanella, and that he did not know her to have such a carriage. But, omitting indecent familiarities proved by eight or nine witnesses not impeached or contradicted, he did not say that they were to be left out entirely; but, if left out, the facts of the mode of going to the theatre of San Carlos, and of dining with Bergami in his courier's dress, bore out the allegation of offensive and indecent familiarities.

LORD ELLENBOROUGH said, he understood the words "and in other respects" to mean offensive and indecent familiarities towards other persons besides Bergami. The instances stated by the Noble Earl were all instances in which Bergami was present, and they certainly warranted the allegation of "offensive and indecent familiarity and freedom;" but the words "and in other respects" were not warranted by them.

The EARL of LIVERPOOL said his side

was, that the words did not imply familiarities towards other individuals; but that they expressed offensive and indecent familiarities where Bergami was not alone with her. He had, however, no objection to leaving out the words.

LORD ELLENBOROUGH thought offensive familiarity and freedom must be charged in reference to some person. He did think, therefore, the words "in other respects" should be left out.

The EARL of LIVERPOOL said he had no objection.

The EARL of CARNARVON wished to know from the Noble Earl (Liverpool) what age he could say, from his political experience, was too great for acting the part of an automaton. (*Loud cheers & laughter*) The Noble Earl relied entirely on the evidence of De Mont to prove indecent and offensive familiarities; but De Mont herself was the most degrading associate that could be proved to have been, on any occasion, in her Majesty's society. (*hear.*) If the words were altered to "and other persons, male and female" if it were so altered, he did not know that he should object to it.

The EARL of DONOUGHMORE said, that if De Mont alone had spoken to those familiarities, he must have voted against the allegation; but upon the evidence before them, he voted safely and conscientiously for it.

LORD REDESDALE contended that De Mont's evidence ought not to be considered as struck out of the minutes. He apprehended that some parts of her testimony were strongly confirmed by Sir William Gell, and very particularly in parts most objected to.—The Spanish dances might be danced two ways—decent one way, indecent the other way.

The EARL of DARLINGTON thought the evidence of De Mont had better be left out of their consideration.

LORD REDESDALE said they had no right to lay down that principle.

The EARL of DONOUGHMORE wished not to be understood to have given an opinion on those witnesses whose testimonies were particularly objected to. He made up his case without them.

The LORD CHANCELLOR said, if any Noble Lord had supposed that he had thrown Majochi and De Mont overboard, he mistook him. What he had said was, that if De Mont or any other witness had stated what was not believed, they were still bound to hear the rest of her evidence, and to consider how far the rest of her testimony was damaged by the statement of the fact which was not believed. He had also mentioned that Bergami himself ought to have been called. A Scotch authority had been quoted against this opinion. It was certainly true that the Court of Session had decided that

two gentlemen called by a lady ought to be admitted to give their evidence. But, when the case came before their Lordships, they over-ruled that decision.

LORD ORFORD was understood to say that he could not see how her Majesty could be voted guilty of indecent and offensive familiarities while the testimonies of Lord Landaff and Madame Martini were unimpeached. (*Hear.*) While such testimony proved the very reverse, he could not see how they were justified in voting her Majesty guilty.

The EARL of SHAFTESBURY (the Chairman) then read—"and carried on a licentious, disgraceful, and adulterous intercourse with the said Bartolomeo Pergami, which continued for a long period of time, during her Royal Highness's residence abroad.

LORD ELLENBOROUGH said, that although the evidence at the bar proved her Majesty guilty of adultery, yet, thinking that the Bill ought not to pass, and believing that it would not pass (*hear, hear*), he submitted that the person who was to remain Queen of this country ought not to be declared by their Lordships guilty of adultery. To retain such an allegation would be to degrade the King and the Queen. (*Hear.*) To find the Queen guilty of adultery, and not to degrade or divorce her, was to degrade the King. Although he believed her guilty, yet, on expediency of the highest kind, he thought this part of the preamble ought not to be retained.

The EARL of HARROWBY could not understand the argument of the Noble Baron. The sole question before them was, whether the allegation was proved by the evidence. They had come to a verdict, however unwillingly, finding her Majesty guilty. He felt bound not to shrink from his duty on this occasion. If the clause was proved, how was it possible not to state it in the preamble? This was the feeling of every man who voted for the second reading, and many who had voted against the second reading had stated that they believed the adultery.

LORD CALTHORPE objected to the clause on the broad ground of expediency. It would be by no means a sacrifice of justice to omit the words now read.

The EARL of LIVERPOOL was ready to admit that Noble Lords might, properly and consistently, though they believed her Majesty guilty, have voted on the ground of expediency against the second reading. He was ready to admit that they might, on the same ground, vote against the third reading, or the report. But the question was now, whether the allegations in the preamble were made good by the evidence at the bar? Those Noble Lords who thought the case of adultery made good, ought to vote for those words.

LORD ERSKINE said he did not rise



to give their Lordships any trouble on this subject. It was not true that because the words might have been proved they ought therefore to remain. The Noble Lord had left out what had been undoubtedly proved as the new order conferred on Bergami. (Cries of "no, no.") But the words ought to be left out; first, because they were not proved by the evidence, and because the paper laid by her Majesty on the table confirmed the opinion of her innocence. (Hear.) He knew very well in the course of his professional life he had heard protestations of innocence in the mouths of persons whom he believed to be guilty; but, feeling an opinion that she was innocent from the evidence, that declaration by her Majesty confirmed his opinion on the evidence. As the case was not proved by the evidence, the protestation of the accused must confirm the belief of her innocence; but his reason for opposing the words was, that they were most degrading to the King. He understood that when the House divided, many Lords voted for the second reading in the confidence that the divorce would be withdrawn; now this was a most important part of this bill. He was of opinion that if adultery was proved, they must divorce the Queen. She was not only the wife of the King, but she stood in the greatest situation; and if she were proved to have acted in a licentious and disgraceful manner, and she were tried by impeachment, he would have voted against her, and for a divorce. How was it possible to degrade the Queen, and not to divorce her? What situation would she be in? How would she stand? Was it not the first object, in every case of adultery, to be relieved from the party whose infidelity should be proved? He had no idea that there should be no divorce if they went on with this Bill. If they left out "adulterous intercourse," the very foundation of divorce was removed. He was of opinion there was no adultery proved, and he thought the first moment of striking out the charge ought to be taken.

LORD GAGE said, that, it being not a case of adultery, the word "suspicious" was the proper term.

The EARL of SHAFTESBURY put the question, and said he thought the Contents had it.

The EARL of CARNARVON moved, that after the words last read, the following words should be inserted—"And subsequent to her return refused 50,000*l.* a year of the public money, and she proffered homage of both Houses of Parliament." (loud cheers.) No man believed the words which stated that her conduct brought great scandal and dishonour on his Majesty's family and this kingdom; he therefore moved that the words he read should be inserted instead of them.

The EARL of LAUDERDALE said that allegation was not borne out by the evidence. (Hear, hear.)

The EARL of CARNARVON said he withdrew the clause at present, with the intention of moving it on the report.

LORD ELLENBOROUGH said, it could hardly be found on their journals that the Lords had proffered their homage.

The EARL of SHAFTESBURY then put the question on the whole of the preamble, as now amended, and declared the Contents had it. His Lordship then read the enactments of the bill: "Therefore, to manifest our deep sense of such scandalous, disgraceful, and vicious conduct on the part of her said Majesty, by which she has violated the duty which she owed to your Majesty, and has rendered herself unworthy of the exalted rank and station of Queen-Consort of this realm, and to evince our just regard for the dignity of the crown, and the honour of this nation—we, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons, in this present parliament assembled, do humbly entreat your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that her Majesty Caroline Amelia Elizabeth, from and after the passing of this act, shall be, and is hereby, deprived of the title of Queen, and of all the prerogatives, rights, privileges, and exemptions, appertaining to her as Queen-Consort of this realm; and that her said Majesty shall, from and after the passing of this act, for ever be disabled and rendered incapable of using, exercising, and enjoying the same, or any of them; and moreover that the marriage between his Majesty and the said Caroline Amelia Elizabeth be, and the same is hereby, from henceforth for ever wholly dissolved, annulled, and made void, to all intents, constructions, and purposes whatsoever."

The ARCHBISHOP of YORK then rose to address their Lordships on the subject of the divorce clause, but his preliminary remarks were delivered in so low a tone of voice as to be inaudible below the bar. He could not consent to an enactment in which, from its nature and character, it was impossible that the same means of defence, and the same advantages of equal justice, could be afforded as in other cases of a similar description. (Hear.) He knew not where any mention was made in the word of God of a religious expediency that could justify this measure; and, regarding marriage as a sacred and solemn ordinance of religion, he must look on the word of God, and on that only, as the guide of his conduct on such an occasion. (Hear.) He could not therefore consent to retain the divorce clause; and yet if it were not retained, and the other provisions of the bill remained in force, they would exhibit the extraordinary, he might almost

say the monstrous spectacle, of a degraded Queen continuing to be the consort of the Sovereign. He saw no possible way of extricating himself from this dilemma but by opposing the bill altogether. (*Hear, hear, hear.*) In voting yesterday against the second reading, this was the difficulty that influenced his decision. It was not that he felt any hesitation in making up his mind as to the evidence, but he felt himself justified as a legislator, and under all the circumstances of the case, in saying "Not Content;" conscious, at the same time, that, had he been called on to decide in a purely judicial character, he would have said "Guilty." He had only two or three words more to offer to their Lordships' attention. It had been stated at the commencement of this proceeding, and the remark had been frequently repeated, that a regard for public morals required the passing of this Bill; but, in his view of the case, it would have been much better, not only for public morals, but for the interests of religion, if the bill had never been introduced.—(*Hear, hear.*) In what way, he begged to know, could the general interests of religion be promoted by the public dissemination through the country, and the introduction into every private family, of those offensive and disgusting particulars with which their Lordships had been nauseated throughout this protracted investigation?—The interests of religion could not, in his opinion, be more injured than by a perseverance in those inquiries which had been characterized by one branch of the legislature as "disappointing to the hopes of Parliament, derogatory from the dignity of the crown, and injurious to the best interests of the nation," which must give the utmost pain to every virtuous and loyal man, and tend to vilify and degrade all the constituted authorities and all the sacred institutions of the country. (*hear, hear.*) He had deprecated the proceeding when he first heard it proposed, and he prayed to God that he might not have cause through the rest of his life to deprecate its effects. (*Hear, hear.*)

The BISHOP of CHESTER did think, from all that he had heard, that the Queen was guilty of adultery; but, though he had voted for the 2d. reading of the bill, yet it was on the understanding—on a fair understanding, founded on what had been said in the house—that the divorce clause was not to stand part of it. (*Hear, hear.*) He did not see on what grounds any Noble Lord should wish to retain that clause, especially as there was no objection to its being withdrawn in that quarter which was most interested. He concluded his observations, which were very indistinctly heard, by saying that their Lordships ought to judge as they themselves hoped to be judged.

The ARCHBISHOP of CANTERBURY said that, if it were asked whether a dissolution of the marriage-contract was sanctioned by the word of God, he was bound to say that divorce a *vinculo matrimonii* was consistent with the word of God. There was an express declaration to that effect in the words of our Saviour. It was true that divorce was not talked of either in the canons of the established church, or in the common law of the land. And why? Because marriage lay at the very foundation of civil society, and, therefore, it had been the anxious wish of all countries to protect it by every means in their power from dissolution. Yet instances of divorce had occurred in this country, not only subsequently to the Reformation, but antecedently to that period; and in the Mosaic law there was also mention made of divorce, though he was aware that some commentators said it was for general purposes, and others for special. The words of our Saviour, however, were explicit on the subject; for they stated that, where a dissolution of marriage took place from any other cause than adultery, such dissolution might be followed by the party so dissolving it causing the other party to commit adultery. He admitted that the passages in Matthew were not in Mark nor in Luke; but in Matthew the exception was given, and Mark and Luke had the general institution without the exception. Now, he conceived that the passages in which the exception was omitted ought to be measured by the passage in which it was expressed; for it was impossible to believe that that was not intended which was expressed, though that which was not expressed might be intended. The result therefore was, in his opinion, that the Scriptures left a special case excepted, and the law of this country relative to divorce was founded on the Holy Scriptures. As to the particular question before their Lordships, he should only say that a case of adultery had been inquired into, and, in his judgment, established; and in that view he saw no objection, but least of all on religious grounds, to the bill's standing in its present form.

LORD KING made a few observations, which were almost wholly inaudible below the bar. We understood him to say that there had been a general understanding that the divorce clause was to be omitted.

The BISHOP of WORCESTER opposed the divorce clause at considerable length, but only the purport of one remark could be collected below the bar. He would not vote for this clause unless the Queen were to be allowed the same advantages and the same means of defence as other persons were entitled to.

The BISHOP of LANDAFF was also extremely inaudible. He thought that to retain

the clause would on the whole be most advisable, and his own view of the case certainly entitled him to consent to it. According to the law of the country, he knew no other cause of divorce than adultery, and no other punishment for adultery than divorce; and, as to the Christian law, it certainly provided that dissolution of marriage might take place in any case of adultery, for there was no qualifying clause in our Saviour's injunction.

The BISHOP of LONDON was imperfectly heard. He conceived that there could be no doubt whatever of the power of dissolving the matrimonial bond. He agreed with the Right Reverend Prelate who spoke last in thinking that there was no exception implied in our Saviour's injunction. If the Right Reverend Prelate who had expressed a contrary opinion had stated the texts which were said to contain the limitation, he would have been able to judge of them; but as they had been not quoted, highly as he regarded the opinion of the Rt. Rev. Prelate, he could not agree with it. In the present case, a great constitutional question was involved, and in a constitutional point of view it must be regarded. It was a maxim then of the constitution of this country, that the King could do no wrong. (*hear.*) He had high authority for stating that the King could not commit folly, much less crime. It might be said that, according to this doctrine, the illustrious person accused would be deprived of that defence to which other persons in her unhappy situation were entitled: but here their Lordships were to consider the difference between a bill to give relief to a private individual, and a bill of Pains and Penalties founded on state reasons. In the one case the party accused was entitled to justify her conduct by recrimination; and, when it was found whether the party accusing was himself pure or not, the bill passed into a law. He apprehended, however, that the purity of the husband was not essential: it was not necessary that the purity of the party suing should be established, for bills had passed without that having been ascertained. In this case such proof was by no means required, and he felt himself in conscience bound, on religious, moral, and constitutional grounds, to support the clause.

The EARL of LAUDERDALE wished to address himself to all their Lordships, but particularly to the Right Rev. prelate who spoke last, and to say that he disagreed with him on the subject of the divorce clause. The opinion of the House on that subject had certainly been much misstated. Did he (the Earl of Lauderdale) say, because he objected to this clause, that the King was not pure, and ready to meet any charges that might be founded on this clause? No such thing. Those said so who were for retaining the clause without permitting any inquiry into

that subject. He knew no right that could be enjoyed by any one without the obligation of concomitant duties. He believed the Queen to be guilty; and, therefore, he was ready to consent to as much of the Bill as deprived her of her public station. But should he say that there was one law for the King, and another for the subject?—No. He agreed with the learned doctor (Lushington), who had argued that point admirably and eloquently, that the law of marriage was equally binding on the King as on any subject. Now, the Right Reverend Prelate who spoke last said, that the King was no longer capable of doing any wrong, and that therefore recrimination could not be attempted. But there appeared to him (Lord Lauderdale) a great misunderstanding of the word recrimination. The word "recrimination" naturally entered into this discussion, and connected itself with the mention of the King of these realms. Would the House excuse him (Lord Lauderdale) for stating what was the known maxim of the House in such proceedings as these—that when a man came for relief from the evil of which he complained, he should show that he was not accessory to that evil. He knew himself, that adultery, though not considered a crime at common law, was a crime, and held to be a crime, it was said, in the ecclesiastical courts, which were a part of the common law; and this he ventured to say in the face of that reverend bench, which, however greatly he respected it, was not, perhaps, more capable of judging upon this subject than himself. But if he had been rightly informed, adultery was proceeded against in the ecclesiastical courts, and, according to the civil law, as a "*peccatum*," and not as a crime. A "*peccatum*" was punishable upon different principles, and in a different way. On these considerations he supposed their Lordships would not have the least difficulty in applying the same law to the case of the crown as it would be bound to administer to the meanest subject. He declared that he had exercised much reflection upon this important subject; and when he had first considered it, there were those in that House who knew that he was of opinion that a divorce must be the natural consequence of proving the preamble, and the proper punishment for the offences charged in it. One ground of that former opinion was, it did occur to him, that if their Lordships under that clause, destroyed the situation of the Queen as a "*feme sole*," they naturally left her in that of a "*feme covert*." In that case she might be liable to contract a variety of debts over and above her income; and then, who was to be considered liable for their payment? But, in a closer examination, his mind altered on this subject; because, though in theory it was true that they or other parties might become subject to such debts, yet, in fact, and considering all the

formal process necessary to be sued out, to make good any thing against his Majesty, it was impossible to believe that such would be the fact eventually. The Right Reverend Prelate who spoke last seemed to think that in this case, if the crime of adultery was proved, their Lordships had only to proceed to divorce the parties without further ceremony; that they ought to grant that divorce immediately, unless any thing like recrimination was attempted to be pleaded; and that such had been the practice of the House on all former divorce cases. But if the Right Reverend Prelate would take the trouble to refer to those cases, wherein such recrimination had been even intended only, he would see that that House had taken especial care that the husband should be in attendance always, and subject to examination: and there was no latitude of examination which the House might not go into in order to make out a case that might establish or defeat the husband's claim for a divorce. There was, however, this distinction between other cases and the present—in ordinary divorce cases, the parties had already been before the ecclesiastical courts, previously to coming up to their Lordships; and there they were allowed to plead recrimination in bar of suit. The present bill, with the divorce clause, it appeared to him (Lord Lauderdale) absolutely impossible that their Lordships should consent to; and on that account he never would give his vote for the clause; and on what ground? Upon this—that he thought, indeed, any person accused, and found guilty of what he conceived her Majesty had been convicted of, being placed as Queen at the head of society, and on whom, from her elevated and responsible station, that society would naturally look up for an example; would prove highly injurious to its morals; and that therefore it was desirable she should not continue to occupy that situation. But, on the other hand, could he support the clause without being satisfied of its strict justice? Did he mean, by admitting what he had done, did he mean to say, that the King of this country, whose example must be equally powerful with her's might conduct himself as he pleased, without being subject to the same sort of examination, in the course of a proceeding for a divorce from her? (*hear, hear.*) If he (the King) might do so, he (Lord Lauderdale) would say, for the sake of public morals, that it would be the most dangerous of precedents. He would not, therefore, consent to adopt any measure, under which the King of this country was to have the benefit of an exemption; which was not extended to any other parties in a case of divorce. The Noble Earl concluded by observing, that the Archbishop of Canterbury, who had addressed their Lordships, had correctly defined the law, and

the origin of divorce; but he had heard with astonishment, from another Right Rev. Prelate, that by the law of marriage, as deduced from the Holy Scriptures, divorce was totally prohibited. This was an opinion directly contrary to all which he (Lord Lauderdale) had ever read in any writers upon the subject, and to all the doctrine which he had ever heard taught by the wisdom of that church of which the Right Rev. Prelate was a member.

The EARL of DARNLEY, after having listened with considerable attention to the various opinions which had been expressed by different Noble Lords, confessed that his mind was not made up, from any thing which he had heard from the opposite benches, and particularly from any thing which had fallen from the Rev. Metropolitan who had addressed the House. That Reverend Lord (the Archbishop of Canterbury), as he understood him at least, had laboured to prove that the law of divorce was recognized by scripture. But there was a difficulty in his (Lord Darnley's) mind, which appeared also to have operated upon the mind of the Noble Earl (Liverpool) who first began this discussion. For his own part he was certainly convinced that this clause could not be retained; but the Right Rev. Prelate had stated also, that in this case he saw nothing which should prevent this divorce. The circumstance of a Noble Lord's entering, while discussing the present question, upon the consideration of a subject not at all connected with it, should not prevent him (Lord Darnley) from asking a question which he conceived to be of very great importance. He had been taught to revere that as a divine maxim, which declared, that "whoso putteth away his wife, saving for the cause of fornication, causeth her to commit adultery." Did he quote the passage correctly? If not, some of the Right Rev. Prelates would correct him; but he believed he did. He wished to add, and he would add, whatever the consequence might be, this question—whether the Reverend Bench thought in the case of this woman, who was thus before the House, that she was put away by her husband? (*hear, hear.*) If she was put away by him, and not, as he (Lord Darnley) sincerely believed, for fornication, then he would ask, did that husband, or did he not, cause her to commit adultery? If he did cause her to commit adultery, then he wished to ask also, if the husband having so put away his wife, for no other cause save his own pleasure or convenience, could or could not come there for a divorce; and whether their Lordships could or could not grant it? (*hear, hear.*) Having stated these questions, he would say, (and he would say it with much satisfaction,) that it did appear to him that their Lordships could neither pass the



bill with the divorce clause, nor without it. (*Hear.*) They could not pass the bill with the clause, for those reasons which he had already stated. They could not pass it without the clause, because they could not degrade, unless they could divorce her. Could the wife of the King be any other than the Queen? (*Hear.*) He (Lord Darnley) had heard much, it was true, of the omnipotence of an act of parliament; but he did not suppose it had the power of altering the nature of things. Unless they divorced the Queen, they could not deprive her of her title. They might adopt one measure to degrade and disparage her, and another to deprive her of her rank and dignities; but mankind would always call her Queen, and Queen she would be. Here, then, he thought that he had left the prosecutors within the horns of a dilemma; and let those under whose authority the bill was introduced get out of it as well as they could. Sure he was that, somehow or other, sooner or later, they would get rid of it altogether; but, meanwhile, this detestable bill must remain in that state to which he had alluded. (*Hear.*)

The BISHOP of LONDON explained. He apprehended that, by the Mosaic dispensation, it was permitted to the husband, if his wife displeased him, "to give her," in the language of Scripture, "her bill of divorce, and to put her away;" and if she had left her husband's house, she was at liberty to marry another man. The Christian church held, however, that in that case she was tempted to commit adultery by her husband's having put her away; and therefore had expressed (as we understood the Right Rev. Bishop) its reluctance to sanction the granting of a bill of divorce, which, however it might legally free the party, under the former dispensation, from further observance of a solemn contract, could not do so in a moral point of view. It was, he supposed, upon these grounds that a Noble Lord had advanced the proposition, that the law of divorce was no where recognized by Scripture.

The EARL of DONOUGHMORE expressed his surprise at the objection of the Noble Earl (Lauderdale) to the retaining this clause; especially as, among those who must be the best judges of the subject, there seemed to be an almost unanimous opinion to the contrary—he alluded to the bench of Bishops. (After some compliments to Lord Lauderdale upon his general knowledge and his acquaintance with the civil and canon law), the Noble Earl proceeded to say, that in this case the King was prosecutor, only as the head of the state; he had not appeared in his individual or personal capacity, and from hence he went on to infer the total absence of any analogy between the present measure and ordinary divorce laws. He deprecated the little respect and re-

gard which had been manifested for the feelings of that illustrious individual (his Majesty) in the course of this proceeding; and arguing for the necessity of preserving the divorce clause, and the evil consequences of rejecting it, observed, that it was a day which their Lordships owed to the throne, to the country, to themselves, to society, and to "the women." (*A laugh.*) (At this part of the Noble Earl's speech the cries of "question, question, question" became very general.) Noble Lords were welcome to this sort of interruption, they might call out what they pleased; but he could only say, that if they were meant to deter him from expressing his opinion, he regarded their cries with sovereign contempt. It was agreed that his Majesty was unfit to be Queen; but, said certain Noble Lords, "let her remain Queen—tie her still to his Majesty." (*a laugh*)—we will give him no hope." After some other observations, in favour of the divorce clause, the Noble Earl concluded.

The BISHOP of CHESTER declared, in explanation, that no observation which he had yet heard, and no circumstance whatever of which he was then aware, in the best exercise of his judgment, and according to the honest dictates of his conscience, should ever induce him to give his vote for the passing of this bill with the divorce clause.

The EARL of DONOUGHMORE explained.

The EARL of HARROWBY felt it necessary to submit to the House a few observations, after what had passed the other day, when he did state, that he would not vote for this bill if it included the clause in question, without then assigning the grounds of that determination. And he could say that if he had not come already prepared to offer those grounds, all that he had heard from the Noble Earl tended to furnish strong additional evidence to him, of the necessity of his now explaining them. In the first place, he did not think that the rejection of this clause would be attended with any of the evil consequences anticipated by the Noble Earl (Donoughmore). Indeed he thought at first that the introduction of this clause would have a tendency to give the measure itself a different aspect from that which it ought to wear. It would give it not the appearance of a measure of personal relief, instead of being what it was, a state measure, a matter of state policy. He felt also, that upon such a question as that of divorce the opinion of the Reverend Bench should be particularly attended to by the House. He found amongst those who were particularly conversant with a question of a religious nature, much difference of opinion upon the particular subject of this clause, and he thought great attention should be paid to the scruples of the religious part of the community. He did not think it, therefore, ne-

country that the Divorce Clause should be persevered in; and under such circumstances he was of opinion that a more mitigated species of separation would answer every purpose, and lessen the evil which the Noble Earl who spoke last had alluded to. The house and the country had for many years known that the illustrious parties were living in a state of separation which had been subsequently recognized by an act of parliament; but, independent of this knowledge, they had now before them in evidence a letter from his present Majesty to the Queen, desiring and acting on that separation twenty four years ago. If this were the case of a private individual, he did not think the house would go so far as to grant a divorce. He was perfectly ready to admit that a divorce was not forbidden by the laws of God or man; but he saw no reason why they should, as this case stood, proceed to the extremity which the law under other circumstances would justify. He saw no state necessity for the divorce here, and therefore he was disinclined to press it on this occasion, unless the house was prepared to say that they would grant it upon the application of other individuals similarly circumstanced.—*(Hear.)*

**EARL FITZWILLIAM** said a few words, but in so low a tone of voice as to be almost entirely inaudible below the bar. We understood the Noble Lord to have the strongest objections to the clause under consideration, and to appeal to the Noble Earl at the head of his Majesty's government, whether the King applied for that relief which this clause intended to afford. He said that it was impossible the house could proceed to separate a man and his wife from the marriage state, neither of whom sought for such separation.—*(Hear.)*

The **EARL of LIVERPOOL** said, that being appealed to by the Noble Earl who had just sat down, he must beg of the House to recollect what had passed upon this subject as far as he was concerned. The house would do him the justice to recollect, that on the 19th of August, on the first discussion upon this bill, he had particularly urged this proceeding, on the grounds of public justice, and had then stated that he knew much misrepresentation had elsewhere prevailed on the subject of the remedy required by one of the parties. It was said to be sought for as a measure of personal relief for the Prince on the throne. On that ground he (the Earl of Liverpool) did distinctly disclaim the measure, and had said, so far from that being the ground on which he proposed the bill, he was ready, if any religious feeling prevailed upon the divorce part of the measure, to relinquish that part of the relief altogether. This readiness he subsequently expressed in a second debate upon the Bill. He merely alluded to the opinion which he understood prevailed

among the religious portion of the public, for from him no communication respecting that point took place with the right reverend bench, except so far as the public expression of his opinion in his place in that House. That was the fact; and so far from his having had any private understanding upon the point with any body, he uniformly and distinctly refused to have, and disclaimed any such understanding, and had also refrained from all personal communication, of whatever nature, out of the House upon this Bill. In his place in that House had he alone discussed it. *(Hear, hear.)* What he had done was dictated solely by a sense of public duty; and while in the discharge of the functions which that duty imposed upon him, he had carried on this measure—he had from beginning to end declared his wish that the judgment of the House should be alone pronounced upon the honest and conscientious opinion of their Lordships. *(Hear, hear.)* He had also in an early stage of the proceeding assured their Lordships, that no difference of opinion upon the measure should for one moment diminish one iota of the respect he bore for any Noble Lord in that House. *(Hear.)* Having said so much in allusion to what had fallen from him on previous occasions, he should make a few observations upon the clause immediately before the House. He had always said, that though a divorce might be the effect of the Bill in one respect, yet that it was not its principle; that the Bill was in fact a public measure, and not one of private relief. And he had even gone further, and said that there might be cases of a young king and a young wife, in which was involved the integrity of the succession, when the House would not be warranted to pronounce a divorce, if the parties had previously been in a state of separation, unless that the public necessity were striking and imperious. It was said that in this case the House could not degrade the Queen without following the degradation up by a clause of divorce; and that if the latter were not adopted, the measure would be a bill of degradation against the King, instead of the Queen. Now, he could not at all concur in this opinion. Suppose for a moment that this case were of a Queen who had committed the crime of felony, one of the highest known to the law, would any body say that that were not enough to justify her degradation from her rights and prerogatives as Queen? Would not that justify a measure of separation, though for it no divorce could be inflicted; for both the reverend bench and every christian knew, that for no other crime than that of adultery could a divorce be pronounced. There were many crimes of so flagitious a cast that they must be followed up by degradation, though no divorce could be raised upon them by the laws of God or

man. He denied that the degradation of the Queen necessarily led to her divorce. He had not the presumption to discuss a religious question, but he fully agreed in one opinion with those who thought that for adultery alone was divorce inflicted by the divine law. Recrimination had been well said to be no part of the law of God, but had been wisely decreed by the laws of man for the purpose of controlling and punishing human passion. How recrimination was attainable in this case he was not prepared to say, nor was he about to discuss how far the constitutional maxim that the King can do no wrong would operate against it. With respect to the high station of the parties, it had the disadvantage of exposing one of them to the effect of widely circulated calumnies, which he could not consistently with the dignity of his station publicly refute. And with respect to these calumnies he must say, without meaning to bear hard upon the Queen, that it was highly improper for those who could not know the whole of what might have occurred between the parties, to pronounce in a harsh and calumnious manner upon one side of the question between them. (*Hear.*) On the subject of the present clause, he must repeat, that as no inconsiderable religious part of the community objected to the divorce in this case, he was not disposed to press it. It was a fact that the illustrious parties had lived in a state of separation for 24 years; that state had been sanctioned by the late King, and afterwards confirmed by act of parliament. He had not certainly the same doubts which others had upon the propriety of enacting the divorce now, after what had occurred; but he thought and felt that where there was a strong religious feeling in the country upon the particular clause, it should not be pressed, and particularly where no great public or state necessity called for its complete adoption. He was at the same time aware, that if the house agreed to strike out the divorce clause, it would still be necessary to introduce a clause confirming and arranging the separation, so that the King should suffer no future inconvenience from the contract which subsisted. It was unnecessary now to enter into the particulars of what that stipulation ought to be, as it could only be considered in the event of the divorce clause being abandoned.

The LORD CHANCELLOR said it had often been his duty, when presiding in that House, during the consideration of divorce cases, to consider that branch of the law by which they were regulated. He could never bring himself to agree with Mr. Justice Blackstone, in his Commentaries, that marriage was merely a civil contract. In truth, it could not be a civil contract, for it was neither the parent nor the child of civil society. It ought rather to be considered as *principium*

*arbis et fundamentum Republicæ.* They should bear in mind, that those whom

"God has put together, no man can separate." (*Hear.*) This declaration was expressed in many parts of the New Testament, though some misconstruction, he thought, had prevailed regarding the words "whoso shall put away his wife," &c. At the time of the Reformation, when men's minds were aflame on many religious subjects, the law as to marriage settled itself thus:—that marriage was a civil contract, certainly; but, unless the ecclesiastical law were no part of the law of the land, it was a religious contract also: it was civil as to its civil rights, and religious as to its moral duties. Neither the common law nor the ecclesiastical law knew any thing of divorce *a vinculo matrimonii*; but Parliament had been in the habit of granting relief, in particular cases, by dissolving the bond. In early times the House had no standing order either regarding the time of bringing actions for adultery; and it was not until 1795 that it was required that the proceedings in the Ecclesiastical Court should be produced with the petition of the party claiming a Divorce Bill. These were required to show that the party seeking relief was entitled to it, and that it was not improperly hastened. On the subject of recrimination, he must put the House in mind that he had been unable to find any place in Scripture which stated that a woman who was an adulteress should be deemed otherwise because her husband had committed the same crime. (*Hear.*) The House required also that the party suing should come with clean hands; that he should show that he was deserving of what he claimed; and if a husband neglected his own obligations to his wife, it had decided that he should not be permitted to complain that his wife had forgotten her's. This was not all; the House would not allow a woman to obtain a divorce but under very special circumstances. Almost the only case on record was that of Mrs. Addison, where the House granted the bill because the husband had committed incestuous adultery with the sister of his wife. In such a case nothing like what the law called condonation or mutual forgiveness could take place, for that of itself must be looked upon as a great offence. The necessity of a previous action at law was also there dispensed with. He thought the rules of the House in this respect highly advantageous to the general interest of society, and he should be sorry if they in all common cases were not observed hereafter with the same strictness as formerly. They provided that where a husband threw his wife into the arms of another man, he must be contented with the ordinary law, and could not expect peculiar relief. A Noble Earl under the gallery had objected, that the House could interpose by way of divorce without some

instigation on the part of his Majesty, and another Noble Earl had alluded to supposed difficulties to arise from tendering the bill to his Majesty for the Royal Assent; but in any form of the Proceeding the Assent of the Crown could not be dispensed with. Supposing the most virtuous of kings had the vilest of wives, who had committed the grossest adultery—adultery that would subject her to the penalties of treason: if the fact were proved to the perfect satisfaction of all the world, the sentence of the law could not be executed without the concurrence of the Crown. The Royal assent was also necessary to a bill, and in no way could the concurrence of the Crown be avoided. If the objection were to prevail therefore, no King of this country could ever get rid of his wife. This brought him to the point of expediency, on which he thought the decision would turn. Supposing the substantial part of the preamble proved he thought that no man ought to object to the second reading; but many Noble Lords, yesterday, thought it right to vote against the second reading, but not without declaring their sentiments, because they deemed the measure inexpedient. He did not mean to say, that some Peers had gone so far as to argue that there were only suspicions against the Queen; but he should not have considered that he was acting rightly, if, being convinced that her Majesty was guilty, he had stopped on the ground of expediency.—The further progress of the measure might be arrested, when their Lordships pleased; or it might be limited, keeping always within view its original intention. The truth of the preamble had this day come under discussion; and a Right Reverend Prelate (the Archbishop of York) had declared his opinion that he could not find her Majesty guiltless: the charge of an adulterous intercourse continued in it, and no Noble Lord had thought of pressing a division. On the second reading of the Bill, the division had taken place; but when the truth of the preamble was merely in question, it passed without dispute. With regard to the original formation of the bill, it appeared to him that the divorce clause ought to be introduced into it, for this among other reasons:—if the Queen were deprived of her rights, privileges and immunities, it could not be forgotten, that one of those rights was that she might sue and be sued as a "*feme sole*." If she were deprived of this right, and still continued the wife of the King, she was even more closely connected with him than before: she became like the wife of any other person; and the King, like any other husband, would be liable for the debts his wife might contract. He was by no means prepared, however, to say that the case of the King was the same as the case of a subject, (*hear*) and whether he attended to the Archbishop on his right hand,

or the Archbishop on his left, certain it was that wives, in general, were not placed in the same situation as queens. The wives of kings were raised to a lofty eminence, and were subjected to the observations and remarks of all mankind. Under the head of expediency, the danger to the succession, and, indeed all present and all future circumstances, ought to be weighed. And, if the House did not think that the clause to dissolve the "*vinculum matrimonii*" should stand part of the Bill, he would ask, whether it would not be proper to make the separation effectual, which at present depended on a civil contract, supported, as that separation had been, by the consent and approbation of his late Majesty, in 1809. Having thus far trespassed upon the house, he would declare, in conclusion, that no man had ever been guilty of more cruelty and injustice than he had been, in acting upon the evidence in divorce causes, if the testimony now upon the table were not sufficient to support the clause under consideration. It was his anxious wish, that each of the Noble Lords, (as yesterday,) should explain his opinion, whether this clause ought or ought not to stand, with a notice of ground on which that opinion rested. As for himself, he wished to reserve his judgment until he had obtained all the light upon the subject that could be procured. If the house insisted upon a division immediately, he could only say, that he should sit down with great mortification at being able to learn the sentiments of their Lordships, and particularly of certain peer whom he had in his eye, only by the expression of their vote as Content or Not Content on this question.

The EARL of CARNARVON made a single remark, which was lost below the bar.

The LORD CHANCELLOR moved that the House should be resumed, and it should adjourn until to-morrow at 10 o'clock.

The MARQUIS of LANSDOWN said, that he had opposed the bill *in toto*, and we understood him to add, that he should resist the divorce clause, as a part of it.

LORD DUNCAN took the opportunity of asserting that the whole proceeding against the Queen obviously arose out of a base and foul conspiracy, supported by perjured witnesses. For one, he could fearlessly lay his hand upon his heart, and give a verdict of "not guilty."

The EARL of LIVERPOOL observed, that the regular motion was, that the chairman of the committee should report progress, as the Bill could not be gone through to-night.

EARL GREY wished to be informed whether the Noble and Learned Lord on the woolsack did not mean to give his opinion until all their Lordships had delivered their judgments upon the question of divorce *ser-*



ation? (laughter.) He pressed a division on the clause immediately. (question, question.)

EARL GROSVENOR said, that the only question now was, whether the divorce clause should stand part of the Bill.

The EARL of SHAFTESBURY, amid considerable confusion, informed the House, that the question was that he should leave the chair. The House could not adjourn until it was resumed.

The question that the House be resumed was then put by the chairman, and, as he declared it to be carried in the affirmative, strangers were ordered to withdraw, and they did so accordingly. Much disorder at this time prevailed, and no division took place.

The House then adjourned at ten minutes before four, until ten o'clock to-morrow morning.

### House of Lords,

WEDNESDAY, NOVEMBER 8, 1820.

The house met at 10 o'clock.

The EARL of LIVERPOOL rose and made some observations, which were not heard below the bar. From what passed we understood him to have moved that the Bishop of Bristol have leave of absence to go to Cambridge to attend the duties of the college over which he presides; and that another Bishop should attend the service of the house in the stead of that Reverend Prelate.

LORD KENYON said, if the Noble Earl thought proper to appoint a Bishop for the office alluded to, none could be more proper than the Reverend Prelate; but in his opinion the junior bishop ought to attend the service of the house.

The EARL of LIVERPOOL said, that the Bishop of Bristol had not become a member of the house till the present proceeding was considerably advanced, and neither had given, nor meant to give, any vote upon it. His absence could, of course, be a matter of no importance as regarded this proceeding.

The BISHOP of ST. DAVID'S (we understood) said that no person was better fitted for the performance of his duty to a college than the Right Reverend Prelate in question.

LORD KENYON fully admitted his fitness; but had merely alluded to the reasons of the excuse, which he thought not a proper ground.

After a few words from Lord Redesdale, and from the Earl of Liverpool in explanation, the farther attendance of his Lordship was excused.

The motion was then agreed to.

LORD HOLLAND stated, that he had yesterday been absent from indisposition, and had not had the opportunity of stating the protest by which other Noble Lords had expressed their dissent to the second reading of the bill of Pains and Penalties. By No. 114 of their Lordships' standing order he was in point of form still prevented from affixing his name that day, unless the standing order were suspended by leave of the house, as the time limited by that order for affixing names to a protest had expired. He was now anxious to have their Lordships' permission to add his name to the protest against a bill which he had from the first looked on as very foolish, a very unnecessary, and very unnecessary measure, and, after having heard the disgusting evidence which had been produced at their Lordships' bar, he could now on his conscience and honour declare, and he thought the charges disproved in many points, doubtful in all, and the bill both unjust in principle, and hazardous in its consequences. He would therefore move the suspension of the standing order.

The EARL of DARNLEY was desirous of adding his name to the protest, which he hoped to be allowed to do, because he had forgotten to sign it within the time prescribed by the standing order.

LORD HOLLAND said, that it ought to be considered that the standing order left it open to their Lordships to record their dissent until two o'clock on the day following that on which the objectionable measure passed; that the House usually met at four o'clock, but in this proceeding they had adjourned at four o'clock, which was the usual time of their meeting.

The EARL of MINTO thought that the standing order should be dispensed with, and that the Peers who were desirous of adding their names should be permitted to do so.

The EARL of LAUDERDALE required the order to be read.

The order limited the time of protesting to two o'clock on the day succeeding the division. The dissent to be recorded with or without reasons stated.

LORD HOLLAND reminded the House that on many occasions the order had been dispensed with.

The EARL of LAUDERDALE directed another order to be read, which required a day's notice to be given for the alteration or suspension of any standing order, or for the establishment of any other order as a standing order of the House.

The EARL of DARNLEY did not wish to make any alteration in the standing order. He moved for leave to add his own name and those of the Duke of Devonshire and Lord Bolingbroke to the protest.

The EARL of LAUDERDALE objected.

to the irregularity of this course. To move that certain Peers who had neglected to conform to a standing order should now be enabled to repair that neglect, was, in his opinion, moving nothing less than a direct violation of the forms of that House.

LORD HOLLAND observed, that the regular course certainly was to give notice of a motion for taking the standing order into consideration on a future day. But he could see no ground for the apprehension expressed by his Noble Friend. No mischief could reasonably be expected from doing what was proposed, because it was a thing often done. He recollected not one or two, but many instances, in which the mode of proceeding now proposed had been followed. To remove, however, all objections, he would give notice for to-morrow of a motion for the suspension of the standing order.

The MARQUIS of LANSDOWN thought the proposition made by his Noble Friend on the cross-bench, with respect to the standing order, more objectionable than that of his Noble Friend near him, inasmuch as it was a greater violation of that order. The proposition before the House was, that certain Noble Lords, who were named, should have leave to subscribe a protest, and that for that purpose only the standing order should be suspended. The other proposition was, that the standing order should be suspended, not with respect to Noble Lords expressly named, but with respect to all Noble Lords who might choose to subscribe the protest. This was, therefore, a much stronger proposition with respect to the standing order than that which had been first made.

The EARL of LIVERPOOL thought that the standing order ought to be strictly adhered to, and never suspended except on special grounds. The Noble Lord opposite had stated that indisposition had prevented him from putting his name to the protest: that he thought a fair admissible ground; but the case was very different when Noble Lords called for the suspension of a standing order on the ground of forgetfulness. There ought to be some rule to go by in cases such as the present. On some very important occasions, such as the impeachment of Lord Melville, where the case was of great magnitude, an indulgence was granted of two or three days to sign the protest; but on all such occasions there ought to be good cause shown.

The LORD-CHANCELLOR said that there was a great difference between bodily disease and mental disease. (*A laugh*) If forgetfulness was to be admitted as a good plea for getting over a standing order of the house, there would be no end to such applications. At all events, the question for adding names could never be put in what the Scotch call "the slump way," proposed by

the Noble Earl (Lord Darnley.) Each Lord must speak for himself, and state the special ground on which he solicited the indulgence of the house; and whoever did so ought particularly to state whether it really had been his intention to sign the dissent within the time limited by the rules of the house; for if it was a mere after-thought, certainly no such permission ought to be granted.

The EARL of DARNLEY was surprised that the Noble and Learned Lord should object to any man for pleading a *non mi ricordo*; (*laughter*,) especially after the great favour which had been shown to that plea by the Noble and Learned Lord and other Noble Lords in that house. He thought he was at least entitled to as much indulgence from the house as had been bestowed on Majocchi.—(*Continued laughter*.)

LORD ERSKINE said, that though he had the honour of being a Scotchman, he would not be "slumped" in the way proposed. His plea was that he had been prevented by illness from signing with his friends. He would wait, however, the result of the motion, of which notice had been given by his Noble Friend (Lord Holland.)

The order of the day was then moved, and the committee on the Bill of Pains and Penalties was resumed.

The ARCHBISHOP of TUAM rose. In consequence of the call made, the house was yesterday in a committee. So much had already been said on the 32d verse of the 5th chapter of St. Matthew, that although his mind had long since been made up to vote against the divorce clause in this bill, he did not think it necessary, in the view he took of the subject, to trouble their Lordships with any observations on the application of that text. But if he could show that the illustrious lady whose conduct was now under discussion had been put away by her husband—if he could also show that among the numerous texts of Scripture, there were some which contained solemn denunciations of the Almighty for sanctioning such putting away, he felt that he then should show safe ground to induce him to vote against that clause, which would have the effect of dissolving the marriage contract in the case.—Now, as all this could be shown and proved, it was impossible for him to agree to the clause in question. In the first place, with respect to the putting away, he thought that, in proof of that fact, he might fairly allude to the letter written by the King soon after his marriage, and which had been given in evidence at the bar. In the second place, in proof of the divine denunciation, he would refer to the second chapter of the book of Malachi the prophet. It would there be found that the Lord had turned away his face from the people: and it was stated by the prophet that their offering was no longer re-

ceived with good will, because the altar was covered by the tears, and the temple filled with the lamentations, of injured women importuning Heaven, and calling down vengeance on those who dealt treacherously with them. The prophet enforces this by reminding those he addresses of the object of the first institution of marriage, and in conclusion says—"For the Lord, the God of Israel, saith that he hateth putting away." Having stated this, he had now to observe that he stood before their Lordships a most unwilling judge in this case; and he candidly confessed that nothing but force, nothing but the heavy penalty to which he would have exposed himself by his absence, would have induced him to have attended the House during this distressing inquiry. He had been brought there by compulsion. He had been forced away from important duties—duties which no man on earth but himself was entitled to perform, and which had therefore remained suspended for the last three months. Having been forced to appear daily in that House, he had paid every attention in his power to what had passed before their Lordships on both sides of the question—to the able statements made by the counsel in support of the bill—in her Majesty's defence—to all the evidence—and to all the eloquent speeches which had been delivered on the subject by the Noble Lords in that House. He had attended during every day, every hour, nay, he might say, every minute of the proceedings. He had voted for the second reading of the bill, because there was then no other question before the House, and no other way in which he could act conformably to the opinion he had formed, which was, that a satisfactory, an irresistible case had been made out for the bill. But his conscience never could be reconciled to this divorce clause. He never would agree to vote for it, and therefore hoped it would now be struck out. It would be better to leave the conduct of the Queen unnoticed, and the question of degradation untouched, than to pass the bill with this clause.

The BISHOP of PETERBOROUGH observed, that the Noble and Learned Lord on the woolsack had referred to the opinion of the Bench of Bishops in this clause. It was, however, with much difficulty that he answered the call; and this could not surprise their Lordships, as the Noble and Learned Lord himself, whose mind was so comprehensive as to embrace every part of this question, had declared that he felt himself involved in considerable difficulty on this occasion. For his own part, he confessed that he never, in the whole of his life, entered with more anxiety on any subject than on the discussion of this divorce clause. It had ever been his anxious desire to see, if possible, whether this divorce clause could not be omitted: it was not

upon any doubts he entertained respecting the principle of legislating upon such a clause, or he was firmly persuaded that in cases of adultery the infliction of divorce was consonant both to the laws of God and man. He was, respecting this bill, compelled to acknowledge, though with great pain, that such a crime had in this case been proved against the Queen; but, on the other hand, when he looked at all the circumstances connected with the bill before the house, he thought the situation of the parties was in part widely different from that in those cases where a divorce was ordinarily inflicted for that crime; and it was that difference in the cases which operated upon his mind, and made him most anxious that the divorce clause should not be included in the Bill of Pains and Penalties. (Hear.) On the other hand he must confess he felt a great loss how the divorce clause could be got rid of, considering the state of the case. He saw, after all the consideration he could give the subject, the many difficulties, to him almost insurmountable, which must attend the omission of the clause in such an enactment. He could not see how the Queen could be legally and effectually placed in a state of degradation, and yet at the same time remain the wife of the King. (Hear.) He was unable to comprehend how the clause of deprivation from the title, station, and prerogatives of Queen, could be made consistent in its appearance and effect without the divorce clause. The wife of the King ought, to all intents and purposes, to be Queen Consort; and if to all legal purposes she was to remain the wedded Queen, he could not see by what possible enactment the degradation from her public rank could be carried into complete effect. The divorce clause, indeed, made the clause of degradation intelligible; but, without it, he could not see how the bill could be legally operative for the other purpose. (Hear.) He, therefore, humbly submitted, that some clause should if possible be framed in substitution of the divorce clause, so as to render the bill consistent in its operation. What the consequences would be he was not prepared to say, nor could he devise any measure so as to extricate them from their present difficulty. It was for others to say whether a clause could not be arranged less powerful in its operation than the present, and yet sufficiently strong to give force to the enactment on which the house had decided, and to obviate the difficulties which were felt upon the subject. His objections, he had already stated, were chiefly of a religious nature; and feeling them, he as well as his right reverend brethren around him were bound to express them, and act according to their dictates. (Hear.) Matrimony is not only a religious but a civil contract—in the latter sense it led to civil rights. Was it not

possible that the latter could be rescinded without affecting the force of the former—that is, that the legal rights appertaining to the civil contract should cease, and the religious branch of the contract remain unaffected? He was too little acquainted with the common law to solve the difficulty himself, or undertake to propose any specific form of clause adequate for the purpose in view: but if something of the kind were framed, it would remove the difficulty he felt upon the subject. Having now delivered his opinion, he should not detain the House any further than to thank them for their attention, and to apologize for having trespassed upon their patience. (*Hear, hear.*)

The ARCHBISHOP of YORK had no desire to convert this chamber into an arena for polemical controversy, but he felt himself called upon to say a few words in explanation of what he had said on a former occasion. He had never asserted, or meant to assert, that the crime of adultery was not considered in Scripture as sufficient ground for the enactment of a divorce, but only that, consistently with his own conclusion from the meaning of the general tenets of Scripture, the marriage union must be considered as imposing a reciprocal obligation upon the parties who contracted the marriage. Where that reciprocity was not manifested by the parties themselves in their sense of the obligation they had incurred, he could not consent to a clause of divorce. (*Hear.*)

LORD REDESDALE expressed his opinion in favour of the divorce clause. He agreed that marriage was a civil, and in some sense a religious contract; but it was, more properly speaking, a religious vow rather than a religious contract, and from that vow he was ready to admit no earthly power could give a discharge except in the case of adultery. He apprehended that, so far as the law of the country recognized a marriage as creating a civil contract, it applied in a great measure to the security of other rights than those of the immediate parties who had entered into the contract; for instance, in the case of securing the legitimacy of children. Much had been said of religious scruples upon this subject; but he thought, on close examination, they would be found to arise out of a misconception of the true effect of the clause in this Bill; that effect was to take away the rights created by the civil contract entered into between the parties. If this were not done in the present case, he could not see how the clause of degradation was to have its intended operation. (*Hear.*) How could the Queen, after this Bill passed, be left any longer in the state of Queen Consort of these realms? That rank, it must be considered, was not simply of a personal nature, but involved a public character in the state. How could such a character be degraded with-

out dissolving the marriage state, out of which alone it grew? (*Hear.*)

The LORD CHANCELLOR said that he could not express his feelings upon the present painful subject without stating the reasons by which his anxious opinion was influenced. He had stated yesterday that he wished to defer giving his opinion conclusively upon this branch of the subject until he had received all the light which could be let in upon the question; since that period he had endeavoured to obtain whatever information upon the point was within his reach. With respect to the declaration which had been made upon this clause at the beginning of the discussions upon this subject by his Noble Friend near him (the Earl of Liverpool) he begged to be understood as a party to it now, though he had not so expressed himself at the time. His Noble Friend on the former occasion had said that this clause should not be pressed, if it was found objectionable to the religious part of the community. If such were the general impression, he (the Lord Chancellor) thought it advisable that the clause ought not to be pressed against such a feeling, though he himself, for one, thought it would be more wise to retain the clause. Having thus stated the impression of his own judgment, he was most ready to pay that deference to the religious opinions of others, which, as a public man, he felt he was bound to do. He could not, however, say that he concurred in the opinion of marriage being more a religious vow than a religious contract. He thought that the civil contract arose out of its being a religious one. But he thought it was quite obvious, if the Divorce Clause were omitted, the bill could not be suffered to stand with the first enactment, and without some explanatory one respecting the object of the bill. It was due to both parties that the first enactment should not stand unaccompanied by another to make the bill fully intelligible. If a majority of the House were of opinion that this clause, as at present framed should stand, then there would be an end of the necessity of any further proposition upon the subject. If, however, they entertained a contrary opinion, and dismissed the Divorce Clause, then they were bound to supply its place with another clause, so as to enable lawyers and judges to understand the intention of the legislature in framing the enactment. The House must in terms explain the object they had in view. Those who were induced to vote for the Bill, upon the painful proof of the fact that adultery had been committed, were bound to accompany the clause of a degradation with a measure of effectual separation for the parties.—Still some means might be devised to leave the religious contract unaffected, and yet to annul the consequences which grew



put of the civil contract. The separation *a mensa et thoro*, in fact, long existed, though the arrangement had not dissolved the parties *a vinculo matrimonii*. He thought a clause might be framed so as to give full legal effect to the separation previously arranged between the parties. There was another circumstance which struck him as very important in looking at the possible circumstances which might arise out of this case. He would put it hypothetically. Suppose a lady brought a suit against her husband in the Ecclesiastical Court for a restitution of conjugal rights, and that the husband pleaded the fact of her adultery as a bar to her demand, and proved she had no right to the relief she prayed on account of her crime, would not the court admit that plea in bar, though they might not go the length of granting a divorce? Might it not then, in such a case as that in which they were legislating, be proper so to reconcile the opinions which religious scruples had raised in the case, by the framing some clause, recording the previous separation of the parties, and then the proof that the crime of adultery had been committed, so as, without affecting the religious contract at all, to create a bar to any future claim of the wife arising out of her civil contract? He concluded by stating that he was ready to yield his own opinion of the propriety of the clause to the religious impressions of others, whom he thought entitled to the greatest respect. He thought (repeating his own opinion) that the divorce clause ought to stand; but, as he wished to be a party to his Noble Friend's declaration that it would not be pressed against the sentiment he alluded to, he on that reason, and on that alone, should not press his individual opinion. (*Hear.*)

The MARQUIS of LANSDOWN said he was unwilling their Lordships should go to a division upon this subject without restating the strong objection he had to the course they appeared about to pursue. He assured them that he did not rise to offer any opinion upon the bearing of the divine law. The House had been already informed upon that by those persons who were, from their station and education, better qualified to give their Lordships all the necessary information which they might require: but he rose, on the part of the constitution of this country, to protest against the recognition of so extraordinary a doctrine as this bill went to establish. Nothing in all their anomalies was so anomalous as this—that they should, by a legislative bill, place a woman in the situation of being consort and wife of the King, and not Queen-Consort of the realm. (*Hear.*) He felt all the objections so forcibly urged by the Right Rev. Bishops against the admission of the clause; and, feeling them, he could not shut his eyes to the admission of so extraordinary a character as

this would create in the person of her Majesty—a character quite unknown in the history of the country, quite irreconcilable with the spirit or provisions of its constitution, and not calculated to effect any one of the purposes or ends to which that constitution and that country sedulously looked, and had a right to expect, in the arrangement of the marriage contract between the King and Queen of these realms. (*Hear.*) Seeing the difficulties to which the admission of the clause led, he was still more struck with the difficulties of its separation from the clause of degradation in the Bill. The House, by the Bill, had stated its belief of the proof of the adultery of one of the parties, and the opinion their Lordships entertained that she was not fit to be any longer the consort of the King. Disguise it as they would, that was the substance, the effect, and the letter of their act, in reading this Bill a second time. (*Hear, hear.*) What, then, was to become of the uniform understanding of the country, that the marriage of its King was not put upon the basis of an ordinary marriage, but looked upon rather as a great state measure, involving large public considerations, and tending to the general good by its assurance of promoting and securing the regular succession to the crown? It was for the promotion of these ends, and the security of these objects, that the country legislated upon the marriage condition of the parties. The legislature never did nor could have contemplated the degradation of the Queen, and her still remaining the wife of the King (*hear*); the connexion, in fact, subsisting without promoting or tending to the accomplishment of any of the purposes for which the legislature always regulated the marriage condition of the parties. It was not for him, who had disapproved of the Bill altogether, to reconcile the extraordinary inconsistency which it would present, if the divorce clause were separated from the clause of degradation; but it was for the supporters of the Bill to reconcile the abandonment of the one clause with the retention of the other upon any principle known to the constitution, or recognised by any of its legislative provisions which governed contracts of this description, in which the state was concerned. (*Hear.*) If, then, they omitted the divorce clause, they would have then established the existence of a person—who, as Princess of Wales, had been declared to have committed the alleged crime of adultery—as Queen, to which rank she succeeded, to have been punished and degraded for a crime committed before she had attained that dignity; but, though convicted of such a crime, and declared unfit to be the Queen of this country, she was still admitted, on the face of the same act of the legislature, to be capable, though an alleged adulteress, of continuing the wife of the reigning Sovereign, and she

eligible to supply the succession as Queen-Régnant to the throne of these realms, in the order of her consanguinity. Such a situation, so anomalous in all its parts, was certainly never before heard of; and was quite at variance with the terms of the constitution. In justice to either the King or the Queen, they could not sever the provisions of their Bill in this manner, and make it so utterly inconsistent with itself. He begged of them to recollect the situation on which they would place the Queen if they rejected this clause; he begged of them to consider the situation of her whom they would by such a step have stripped of all the advantages accruing to her out of her marriage contract, still leaving her subject to all its disabilities. She would indeed have great reason to complain if by their authority they placed her in so unprecedented a situation. (*Hear.*) The one estate was a necessary consequence of the other, and how the supporters of the bill could separate them he was utterly at a loss to conjecture. (*Hear, hear.*)

LORD KING said he felt himself in a situation of rather an extraordinary kind upon the question; and the House, in his view, fully participated with him in that feeling. There had been a confusion of opinions amongst the ministers—there had been a confusion of opinions amongst the lawyers (*& laugh*)—and a confusion of opinions amongst the Learned Prelates. (*Hear.*) Upon this clause there were scruples, both religious and political, with respect to its proper operation. Certainly the scruples of the Learned Prelates must arise from religious considerations, and he regretted that amongst that learned body, the fathers of the church, there had not been that conformity of opinion which the church of England required, and on which it so much prided itself. (*Hear.*) He was extremely sorry that the Noble and Learned Lord on the woolsack had not derived from those to whom he had looked with such confidence in formation of a more convincing and enlightened character. (*A laugh.*) But if he had not received instruction from the reverend prelates, he could derive consolation from them; for among them, as among lawyers, there appeared to be difficulty and doubt. (*Laughter.*) But the Noble and Learned Lord had, with a quickness somewhat extraordinary, collected from the conflicting sentiments of the Learned Prelates a very clear idea of the necessity of the clause, although he had been so full of scruples, the day before, as to beg that he might hear every thing before he gave his opinion. In looking to the question as it generally affected the Queen and the country, he could not help saying that he was influenced by reports which had reached him at former periods respecting the conduct of the Queen. It was not to be denied that many

Noble Lords felt the influence of reports which were not legally evidence. He alluded to those reports respecting her Majesty's conduct which had for so long a period been in circulation, and which he believed could not have been so completely shaken off as it were to be wished they could have been when Noble Lords came to consider the second reading of the bill. At the period to which he had alluded it was said that the Queen had been guilty of the greatest indecencies, not with Bergami, but with other persons; that her Majesty, at Blackheath, had been guilty of indecorum with Lord Liverpool! (*Long laughter.*)—and that she had played at blind-man's buff with the Chancellor of the Exchequer! (*Continued laughter.*) He (Lord King) could not refer to the exact period at which those extraordinary and indecent proceedings took place.

The EARL of LIVERPOOL.—“They never took place!”—(*hear.*)

LORD KING.—“I cannot, I assure your Lordships, refer to the exact time, but it must have been, I think, when the Noble Earl was out of place, and looking for means to get into office, before the Regency!” (*Laughter.*)

The EARL of LIVERPOOL.—“Never, upon my honour!”—(*Hear hear.*)

LORD KING said, it was, then, an instance to the Noble Earl of the fidelity of reports. (*Much Laughter.*)

EARL GREY could not, also, refrain from adverting to the serious difference of opinion which prevailed respecting the divorce clause among the reverend prelates opposite; four of them being of opinion that it could not be maintained, and four others entertaining different sentiments. In his opinion this separation of the divorce clause from that which enacted degradation was utterly incompatible with that sense of duty towards the crown which the crown had a right to expect from the supporters of this bill. He confessed he felt considerable difficulty in voting for this clause, as it assumed that that was made out which he thought not established by sufficient and legal proof. He had therefore formed the intention of giving no vote, but he now made up his mind to vote for retaining this clause, believing that it would place the House in such a situation that they must reject the bill altogether, and thus confer upon the country the greatest blessing which it was now in their power to confer. (*Cheers.*)

The EARL of DONOUGHMORE was still of the same opinion in every respect as yesterday. In addition he wished to remind the House of the situation in which they stood. After an investigation of 50 days, upon a bill brought in by his Majesty's ministers, and containing one single enacting paragraph, did they, or did they not, feel an inclination of their minds to leave out one

part of the two which constituted that one paragraph? The Noble and Learned Lord had suggested that it should be thrown out, by voting upon a new proposition altogether, of the nature of which he had given no hint. He should vote in favour of the clause.

LORD ELLENBOROUGH said that, after all that had been said by his Noble and Learned Friend who usually sat upon the wicket, his objection to this bill without the clause of divorce remained undiminished. He entreated of their Lordships to consider what they were in effect declaring to the country, by enacting that a person unfit for being a Queen of this country, must remain the wife of the King. It was, in fact, passing a sedition libel against the King. (*Hear, hear.*)

LORD SOMERS agreed with the Noble Lord who spoke last, and could not vote for throwing out this clause. If any thing could induce him to vote against it, it would be the argument used by a Noble Earl (Grey), that to vote for it would be to effect the ultimate rejection of the bill. Having heard the whole of the case, and having given his opinion yesterday, it was needless for him to say how seriously and conscientiously he wished the bill to pass. He lamented the division of opinion that prevailed on this question. Certainly the only unity was the unity of the phylax who opposed the bill. (*Lord cheers from the ministerial side, answered by louder cheers from the other side.*) Yet still he could not reconcile it to his mind to vote that a person declared guilty of adultery should remain a millstone about the King's neck. (*A laugh.*)

The EARL of LIVERPOOL said he had voted for the second reading from the character conviction of the Queen's guilt; but if this clause were omitted, he should say that the bill not only degraded the Queen, but degraded the King, and degraded the nation. (*Hear, hear.*) It would be degrading the King still more than the Queen to leave on the throne, by whatever description, and tied to the King, a woman whom they had voted unworthy of any station.

The EARL of ESSEX said that, agreeing as he did with the Noble Earl (Grey) near him in all that he had said, he thought he could reconcile to himself the inconsistency of voting for the divorce clause even after the perfect conviction that not one atom of

had been proved on which that would turn out a capital foul conspiracy—such that her Majesty in the year 1817, &c. This was an infamy, and due to omission of it could be belief of the prosecution that they had got enough of that sort

of evidence (*cheers*) upon which they meant to condemn her (*cheers*), and that to extend it over a period longer in the recollection of those who could contradict those would only increase the exposure of their plot. (*Hear.*) The witnesses who had stood at that bar to swear against her Majesty had all been agents or instruments in the conspiracy to destroy her. Some of them had been employed to hunt out for evidence, not of truth, but calculated to destroy her Majesty. (*Hear.*) He had not the least doubt that hereafter, and at no distant period, this foul conspiracy would come to light, and the plots of the Ministers, Grimes, and Oughton (*cheers*) would be developed. (*Hear.*) He felt himself bound, in justice to his illustrious, and he would add, persecuted (*hear*) Princess, that, in the year 1819, he had had the honour of waiting upon her Royal Highness at Epsom. There existed no mystery about her. He had occasion to witness the conduct of Bragmi, that individual of whom so much had been said, and he had remarked, that he acted towards her Royal Highness in the most respectful manner possible, while her conduct towards him was most dignified and proper. (*Lord cheers.*) He could not but wish, therefore, that the bill should go to the third reading with all its imperfections on its head. (*Cheers.*) These observations he had considered himself called on to make in justice to the conduct of his own mind, feeling as he did, the utmost abhorrence at the injustice of the preamble, and the cruelty of the enactments of this bill. (*Cheers.*)

LORD ANSON entirely agreed with the statement of the Noble Earl (Earl Grey), and would vote for the divorce, in order to give the greatest possible chance of throwing out the bill. (*Hear, hear.*) a bill which imputed guilt to an innocent Queen. (*Hear.*) When he saw the reverend bench of Bishops half divided, and the Noble bench of Ministers half divided upon this clause, he could not doubt, if it were retained, that it would considerably reduce that majority, which was small indeed, for the second reading. (*Lord cheers.*) When he considered the number of votes which ought never to have been given (*hear.*) but which were given with a tacit reliance on the exclusion of the divorce, he could not doubt that the bill would be ultimately opposed. (*Hear.*)

The EARL of CARNARVON rose only to remark upon the observation of the Noble Earl upon the cross-bench as to the united phylax upon that side of the house. He rose from a part of that square; yet he experienced not the aid, but the vehement attacks, of the Noble Earl (Downing) who got next to him (*hear*), and of another Noble and able Lord (Grey), who usually voted on that side of the house; but who, on this question had gone to the cross-bench. (*cheers*), and without whose powerful assist-

case, by the most eloquent pleading that he had ever heard, the bill would not have arrived at this stage. (*Hear, hear.*) He would give his vote on this clause, not with the view of promoting the interests of the united phalanx, but with the view of promoting the interests of the united kingdoms of Great Britain and Ireland. (*Hear, hear.*) He begged their Lordships to consider what the consequence would be of passing a bill of degradation without divorce. This consequence did not appear to have been adverted to. They were all aware of a statute which made it high treason to violate the wife of the Sovereign. They proposed to pass a bill of degradation in order to furnish public scandal, and to protect the morality of the country, (*Cheers.*) Her Majesty might still remain in the kingdom and might continue to indulge in that vice which they assumed to be proved, and any individual might commit what by the statute of Edward III. was high treason. Would any Noble Lord say that her prosecutors could come to that house for a second bill of Pains and Penalties against her Majesty? If this were purely a bill of divorce, no ground whatever could be assumed for degradation but the ground of divorce on account of adultery. Were their Lordships to declare, by their vote, that a person not fit to be the associate of the meanest individual in the land was yet a fit individual to be the associate of the King? He, for one, would never concur in such a wanton, unnecessary, premeditated insult on the King. (*Hear, hear.*) Against such an insult, though sanctioned by the advisers of the crown, he would raise his voice. (*Hear, hear.*)

LORD HOLLAND said, he would not detain their Lordships one minute. He rose only to give the Noble Earl on the cross-bench the satisfaction of knowing that the phalanx was not quite united. It had given that Noble Earl great satisfaction to find the lawyers divided, and the Right Reverend Bishops divided on the other side. He now gave him the additional satisfaction of bearing that he differed from his Noble Friend who had just spoken on the law of treason in this case. In his view the objection to the bill was ten times stronger than it could be in his Noble Friend's view. If, with a degree of inconsistency which he could not conceive possible, they rejected the divorce, the Queen would still be the companion of the King (*cheers*), and whoever should violate her would be guilty of high treason. That would be the consequence of this bill without divorce, different indeed from that stated by his Learned Friend, but fully as absurd. He would vote for the clause, in order to throw out the bill; for, while he stood he could not say on his legs, for he stood on one (his Lordship good humouredly pointed to his crutch)—while he stood up

there, he would state that he felt the greatest objection to the bill itself, and to every clause of it. (*hear.*)

The MARQUIS of BUCKINGHAM said he looked not to the effect of the present question on the ultimate fate of the bill. The only question before the committee was, whether it was fit to retain this clause after the evidence had warranted the second reading? He had attended most anxiously to the Reverend Bench of Bishops, who had inquired into the religious considerations on this subject: and the result convinced him that by the law of God there was no impediment to divorce in the case of adultery. He would not only vote for the clause, but he strongly objected to the suggestion of the Noble and Learned Lord, because it would leave her only the wife of the King in a religious point of view, and she was thus to be left in possession of all her religious rights, though her civil rights were abrogated. Believing that there was no objection to divorce in the case of adultery by the word of God, he should vote for it. He could not agree to the doctrine of the Noble Lord as the head of his Majesty's government, that where a separation had taken place, divorce did not necessarily follow adultery. The practice of their Lordships was against that. It was, in effect, to say that the moment a woman was separated from her husband she ought not to be restrained from adultery by fear of divorce. Their practice was different. In the case of Twistleton, a bill of divorce was passed, in consequence of adultery, notwithstanding there had been a deed of separation. He could not agree that the woman, the person who was judged not fit to be Queen, was fit to continue as the wife of the King. The proposition of the Noble and Learned Lord was full of danger; for it would not bar the son from the succession. They must all know the difficulty of proving non-intercourse between persons in the relation of man and wife. It was giving a license of adultery. They had found her guilty of adultery; they were now deliberating whether she ought not to be divorced. They had heard one of the Counsel for the Queen conclude a speech—the eloquence of which had been seldom equalled—with the words of scripture, "Go, and sin no more." But if they excluded the divorce they would say, "Go [and sin, for no punishment shall follow." So great was his anxiety to avoid such a conclusion, that nothing could prevent him from voting for the clause.

LORD ROSS (Glasgow) said he had heard a Noble Lord speak of the stain which Noble Lords had thrown on their name, and the dagger they had planted in their breast, by voting the Queen guilty. He had voted her guilty with the greatest concern, but with the greatest tranquillity of mind. He would rather die than act from an unworthy motive.



He could enter into no compromise of adultery, therefore he would vote for the clause.

EARL NANVERS said, the Bill, with all its clauses, had his entire and unqualified approbation; and, however this clause might affect the future rejection of the Bill, he could not assent to the omission of it. It was the part which he conceived most important and the necessary consequence of the preamble. A Noble Viscount yesterday had declared his sincere and conscientious conviction that the Queen was the victim of a base and foul conspiracy. He was equally conscientious in his conviction—he had been constantly at his post, and he had come to a directly contrary opinion. He was sincerely and conscientiously convinced, that, instead of being the victim of a base and foul conspiracy, she had acted in a manner that was degrading, scandalous, adulterous, and infamous.

LORD HAMPDEN spoke so low that we could not hear him: we understood him to conclude by declaring that he would vote for dissolving one whose name was covered with shame, disgrace, and dishonour.

LORD FALMOUTH said he felt the force of the observations of the Noble Marquis (Lansdowne), who was indeed one of the ablest speakers and highest authorities in that House (others), and who had on this question spoken most eloquently, and to him most instructively, upon the consequences of a degraded Queen still remaining the Consort of the King. He asked then, whether they were prepared to say that a single individual in this kingdom was to have no civil rights, no private rights?—whether they were prepared to say that one individual was not to have the right of claiming the duty and protection as her husband? If no such right was to be allowed by this Bill it had his decided disapprobation. A Right Reverend Prelate had reminded them of the principle, that the King could do no wrong. This might be a good principle in law, and he knew that it was in some instances correct; but, if taken according to the letter, his reason refused to assent. The King had no peculiar private rights in his own family. None was more attached than he to the monarch in a public political character, but he would still show his attachment if he denied his private duties and rights. (Hear.) His opinion was not at all altered.

The EARL of DARNLEY said he was not going to vote on the question; he only rose to say one word as to the united phalanx. He was one of that independent party who were so far united as to join in resisting every part of this bill. He thought the reason of a Right Reverend Prelate, for not voting for this clause, clear and unanswerable. They could not—he could not, at least—vote for a divorce. He would not directly or indirectly, vote for any part of this un-

principled, unjust, and cruel bill. (Hear, hear.)

The EARL of BELHAVEN said a few words with respect to his opinion relative to the Milan Commission, or the conspiracy, as it had been termed; but from the tone of voice in which he spoke, and the general confusion prevailing in the house below the bar, occasioned by the preparation of strangers for retiring, we were unable to collect his Lordship's opinion upon the divorce clause.

The EARL of SHAFTESBURY, as Chairman, then rose amidst loud cries of "Question, question." Having recited the clause providing for the divorce of their Majesties, he proceeded to put the question—"That the words proposed to be left out stand part of the clause." He then declared that he thought the Non-contents had it.—A division was immediately called for. The house was accordingly cleared at about half-past twelve; it was not opened again for the admission of strangers; but it was at one o'clock announced that their Lordships had adjourned, having first divided thus:—

Contents ..... 129

Non-contents ..... 132

Majority in favour of the divorce clause ..... 133

While strangers were excluded, we heard that Lord KING rose, and said that he should offer no apology for submitting to their Lordships a clause, the insertion of which in the bill, seemed a matter of course, considering that the Queen was not remotely placed in the illustrious line of Princes in the succession to the crown of these realms. The crown was limited to her Majesty, in the event of certain persons predeceasing her, and that by the most sacred and fundamental laws of the land. If it devolved on her, the well-known loyalty of their Lordships must at once make them adopt a different view of the present question, and, looking forward to that event, they would be equally ready to provide for it. He therefore moved this clause—"And be it further enacted, by the authority aforesaid, that in case the crown of these realms shall at any time descend to her said Majesty Caroline Amelia Elizabeth, then, and in such case, this present act, and all the matters and things contained therein, shall become utterly void and of no effect, and the whole of the preamble thereof shall be deemed and taken to be false, calumnious, and scandalous, upon the same evidence on which it hath now been held to be sufficiently proved." (Loud cheering, with some cries of order.)

LORD COLVILLE (of Culross, in Scotland, one of the Scotch Peers) rose, with much warmth, to vindicate himself, and those

who acted with him in favour of the Bill. He said they were aspersed—They were attacked—by this motion. He denied the justice of the imputation, and he felt it due to his own conscience, and that of those who voted with him in this measure, to say that they acted conscientiously in it; and that they did still support the Bill. Notwithstanding, he ventured to assert that he and those who honoured him with their support were as loyal as the Noble Lord, or any men. He wished therefore, to know whether that Noble Lord was in order. (*Hear, hear.*) He was proceeding, but was himself interrupted by

LORD HOLLAND, who spoke to order. The Noble Lord (Colville or Culzow) had asked whether his Noble Friend was in order, but had not shown him to be disorderly, or pointed out how, which every Noble Lord was bound to do who took upon him to interrupt another. (*Loud cheers.*) The motion, he verily believed, might not be agreeable to the Noble Lord; but it did not, on that account, become disorderly. (*Hear, Hear.*)

LORD LAUDERDALE, with great vehemence, supported the objections to Lord King's clause. He yielded to no man in loyalty, but he thought this motion attacked every peer who had supported the bill; and it was the manner of making it, rather than the motion itself, which all must perceive to be disorderly. (*Cheers.*)

LORD KING could not allow that any thing disorderly was contained in his clause. It ascribed no motives to any one except loyalty, of which every one was, and justly might be, proud. It only affirmed what was the necessary consequence of loyal feelings, and assumed that their Lordships, as loyal men, the moment the Queen Consort became, by succession, Queen-Regnant, would change their belief respecting her conduct. This was a necessary consequence of their regard for the first principles of the constitution, by which every Monarch was deemed "most excellent," without any regard to his conduct or character.

The clause was negatived without a division; and the chairman was directed to report the bill.

The house resumed, and ordered the report to be received to-morrow.

### MINORITY

IN THE HOUSE OF LORDS THAT VOTED FOR  
EXPUNGING THE DIVORCE CLAUSE.

#### BARONS.

|            |            |
|------------|------------|
| Hill       | Suffield   |
| Rodney     | Calthorpe  |
| Yarborough | Combermere |
| Saltoun    | Sidney     |
| Bayning    | Curzon     |
| Kenyon     | Falmouth   |
| Hopetoun   |            |

#### BISHOPS.

|              |             |
|--------------|-------------|
| Chester      | St. Asaph   |
| Dork         | St. David's |
| Peterborough | Ely         |
| Gloicester   | Worcester   |

#### EARLS.

|              |                |
|--------------|----------------|
| Winchelsea   | Portsmouth     |
| Courtown     | Caledon        |
| Mount Cashel | Lauderdale     |
| Romney       | St. Germaine   |
| Stafford     | Alisbury       |
| Brownlow     | Macclesfield   |
| Fitzwilliam  | Loudale        |
| Stanhope     | Mount Edgcumbe |
| Balcarras    | Farham         |
| Dartmouth    | Pomfret        |
| Aylesford    | Whitworth      |
| Verulam      | Mage           |
| Morton       | Shaftesbury    |

#### MARQUIS.

Cornwallis

#### DUKES.

|          |          |
|----------|----------|
| Clarence | Beaufort |
| Portland |          |

#### ARCHBISHOPS.

|      |           |
|------|-----------|
| York | Tunbridge |
|------|-----------|

#### CABINET MINISTERS, FRAMERS OF THE BILL.

|           |             |
|-----------|-------------|
| Sidmouth  | Liverpool   |
| Melville  | Westmorland |
| B. Thurst | Wellington  |
| Harrowby  | Eldon, C.   |
| Mulgrave  |             |

#### PROTESTS

AGAINST THE SECOND READING OF THE BILL  
OF PAINS AND PENALTIES.

November 6, 1820.

#### DISSENTIENT, No. I.

Resumes the second reading of the Bill in equivalent to a decision that adulterous intercourse (the only foundation on which the bill can rest) has been satisfactorily proved.

Because that adulterous intercourse has been inferred, but not proved; and in a doubtful case, in which the imputed guilt is not proved, although innocence be not established, the benefit of that doubt, conformable to the principles of British justice, must be given to the defendant.

|                                |                            |
|--------------------------------|----------------------------|
| Essex, first reason only       | Mansfield                  |
| Hilsborough, first reason only | Richmond and Lennox        |
| Kenyon                         | Jersey, first reason only  |
| Orford                         | Carrick                    |
| Somerset                       | Grafton, first reason only |
| Selsea                         | Anson, ditto               |
| Rosebery                       | Darlington, ditto          |
| Morley, first reason only      | Belhaven, ditto            |
| Leinster                       |                            |

**Dissentient, No. II.**

Because this proceeding, from its nature cannot be assimilated to a common indictment, in which a conviction upon one count alone, out of many, is sufficient.

And because, although enough has been proved in evidence to satisfy us of the existence of guilt, yet as evidence on many of the allegations has been contradicted, in some disproved, and in others is so suspicious as to be laid wholly out of the case, we are of opinion that it is inexpedient to proceed farther in this measure.

|          |                             |
|----------|-----------------------------|
| Plymouth | Clinton, second reason only |
| Dynevor  |                             |
| Granham  | Gage, second reason         |
| Denbigh  | Ilchester                   |

The following Peers have also protested against the bill upon general grounds:—

**Dissentient, No. III.**

|                         |                            |
|-------------------------|----------------------------|
| William Frederick       | Fortescue                  |
| Landown                 | Darlington                 |
| Jersey                  | Belhaven                   |
| Grey                    | Grafton                    |
| Plymouth                | Breadalbane                |
| Fitzgibbon              | Auckland                   |
| Albemarle               | Dawson (Downe)             |
| Hamilton & Brandon      | Mendip (Clifden)           |
| Duncan                  | Leinster                   |
| Hilborough              | Hawke                      |
| Westworth (Fitzwilliam) | Gosford                    |
|                         | Romney                     |
| Derby                   | Roseberry                  |
| Anson                   | Scott (Portland)           |
| Yarborough              | Thames                     |
| Sherborne               | Hood                       |
| Cowper                  | Ashburton                  |
| Audley                  | Howard of Effingham        |
| Kenyon                  | Alvanley                   |
| Carrick                 | Carnarvon                  |
| Selsea                  | Dundas                     |
| Foley                   | Caledon                    |
| Arden                   | Sunbridge (Duke of Argyll) |
| Egremont                | Ducie                      |
| Torrington              | King                       |
| Suffolk and Berke       | Rosslyn                    |
| Loftus (Ely)            | Dacre                      |
| Morley                  | Calthorpe                  |
| Granville               | Granham                    |
| Richmond & Lennox       | Ellenborough               |
| Bedford                 |                            |

**House of Lords.**

**THURSDAY, NOVEMBER 9, 1890.**

When Lord Holland's name was called, the Lord-Chancellor stated that he had received a communication, informing him that the Noble Lord's indisposition prevented him from attending that morning, and requesting that he (the Lord-Chancellor) would move the House to allow the Noble Lord to affix

his name to the Protest against the second reading of the Bill of Pains and Penalties on a future day. This the Noble and Learned Lord said he was ready to do.

The attendance of the Earl of Morley, and some other Peers, was excused on account of indisposition.

The EARL of MINTO rose to move the suspension of the Standing Order, No. 141, in order that himself and other Peers might have an opportunity to sign the Protest against the second reading of the Bill.—Ordered,

The LORD-CHANCELLOR again stated that he had received a letter from Lord Holland, mentioning that he was still indisposed with the gout, and containing a request, in consequence of which he now moved that that Noble Lord be permitted to affix his name to the Protest as soon as he was able to attend. The Noble and Learned Lord said he knew the disorder with which the Noble Lord was afflicted too well to refuse his assent to this request.

The EARL of MINTO moved that Lords Erskine, Ellenborough, Palmouth, and Bollingbroke, have leave to sign the Protest.

After a few words from Lord Ellenborough and Lord Lauderdale on the form of the Motion, a resolution to the following effect was agreed to:—

“That all the Lords named this day have liberty to sign any Protest or Protests already made against the Bill; and that Lord Holland have liberty to sign the same when he shall be well.”

The EARL of SHAFTESBURY brought up the report of the Committee on the Bill.

The Report being handed to the Lord-Chancellor, he proceeded to state to the House the amendments, in the order in which they had been made, and as they now stand in the following

Bill, [as amended by the Committee] entitled, an Act to deprive her Majesty, Caroline Amelia Elizabeth, of the title, prerogatives, rights, privileges, and exemptions of Queen Consort of this realm; and to dissolve the marriage between his Majesty and the said Caroline Amelia Elizabeth.

Whereas, in the year one thousand eight hundred and fourteen, her Majesty Caroline Amelia Elizabeth, then Princess of Wales, and now Queen-Consort of this realm, being at Milan, in Italy, engaged in her service, in a menial situation, one Bartolomeo Pergami, a foreigner of low station, who had before served in a similar capacity: and whereas after the said Bartolomeo Pergami had so entered the service of her Royal Highness the said Princess of Wales, a most unbecoming and degrading intimacy commenced between her said Royal Highness and the said Bartolomeo Pergami and her said Royal Highness not only advanced the said

Bartolomeo Pergami to a high situation in her Royal Highness's household, and received into her service many of his near relations, some of them in inferior and others in high and confidential situations about her Royal Highness's person, but bestowed upon him other great and extraordinary marks of favour and distinction, and conferred upon him a pretended order of knighthood, which her Royal Highness had taken upon herself to institute, without any just or lawful authority: and whereas also her said Royal Highness, whilst the said Bartolomeo Pergami was in her said service, further unmindful of her exalted rank and station, and of her duty to your Majesty, and wholly regardless of her own honour and character, conducted herself towards the said Bartolomeo Pergami, both in public and private, in various places and countries which her Royal Highness visited, with indecent and offensive familiarity and freedom, and carried on a licentious, disgraceful, and adulterous intercourse with the said Bartolomeo Pergami, which continued for a long period of time, during her Royal Highness's residence abroad; by which conduct of her said Royal Highness great scandal and dishonour have been brought upon your Majesty's family and this kingdom. Therefore, to manifest our deep sense of such scandalous, disgraceful, and vicious conduct on the part of her said Majesty, by which she has violated the duty which she owed to your Majesty, and has rendered herself unworthy of the exalted rank and station of Queen-Consort of this realm; and to evince our just regard for the dignity of the crown, and the honour of this nation; we, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and commons, in parliament assembled, do humbly entreat your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same; that her said Majesty, Caroline Amelia Elizabeth, from and after the passing of this act shall be, and is here, deprived of the title of Queen, and of all the prerogatives rights, privileges, and exemptions, appertaining to her as Queen Consort of this realm: and that her said Majesty shall, from and after the passing of this act, for ever be disabled and rendered incapable of using, exercising and enjoying the same, or of any of them; and, moreover, that the marriage between his Majesty and the said Caroline Amelia Elizabeth be, and the same is hereby, from henceforth for ever wholly dissolved, annulled, and made void to all intents and instructions, and purposes whatsoever.

The DUKE of HAMILTON had to apologise to the House for not having attended  
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to the progress of reading the amendments.—He thought it, however, of importance that he and other Noble Lords who agreed in opinion with him, should have an opportunity of objecting to the words in the preamble which asserted that adulterous intercourse had existed; and it was, therefore, his intention to move that that part of the preamble be omitted. [Here it was intimated to the Noble Duke that this was not the proper time for his objection.] If this was not the period for noticing that subject, he hoped the committee would excuse this intrusion.—He thought, from the last amendment, that the words in question had been passed.

The EARL of LIVERPOOL said, that the proper way with this report, as with every other, was to hear the whole of the amendments read over a first time before any proposition was made upon them.

The EARL of LAUDERDALE said the practice of the house certainly was always to hear the amendments read over to the end of the Bill a first time. On the second reading, if any Noble Peer had any objection or proposition to make with respect to an amendment, he rose on the question that the House should agree to its being put.

The LORD - CHANCELLOR said he would read the whole of the amendments, *seriatim*, a first time, and on the second reading would put the question on each.

The Noble and Learned Lord continued to read the amendments, and when he came to that part in which the word "the" was to be omitted in the sentence "in the various countries in which her Royal Highness visited."

LORD ELLENBOROUGH rose, and said that the word now read, the word "The," was the principal alteration which had been made in the Bill. Many Noble Lords, and a considerable part of those right reverend persons who sat on the bench opposite to him, had voted for the second reading of this bill, under the impression that it was to undergo considerable modification in the committee, particularly with respect to the divorce clause. But their Lordships had now heard most of the amendments, and they contained no modification, the principal change made in the whole bill being the omission of the word to which he had alluded. All the members of the House who had voted for the second reading, under the belief that an essential modification was to be made, being now completely disappointed in that expectation, would doubtless vote against the bill on the third reading.

The EARL of LAUDERDALE wished to say a few words with regard to what had occurred on leaving out the divorce clause. Their Lordships had been distinctly told by a Noble Lord of great experience, of the highest political talents, one of the most eminent members of that House, and a person



for whom he entertained the greatest respect, that his reason for voting, with a view to keep in that clause, arose from his wish to stop the measure altogether. Now, after such a declaration, he would ask those Noble Lords who really objected to the clause, and who wished to remove it from the bill, but had thus been disappointed, whether they could with propriety aid this trick and manœuvre by voting against the third reading? Was it to be expected that Noble Lords who had voted for the second reading were now to reverse that vote, in order to assist the views of those who, in voting for the divorce clause, had declared that their object in doing so was to throw out the bill?

EARL GREY rose with great surprise, and no inconsiderable indignation, at hearing the unjust, unfounded, and calumnious imputation which had been cast upon him. He had hoped that his Noble Friend—that that House—knew him too well to render it possible that he could be accused of resorting to trick and manœuvre to gain an object. Whether such a charge came well from the quarter in which it was made, he left it to the House to consider. But he must say, that to be accused of tricking and manœuvring in his conduct, when he openly avowed the motive and the object of that conduct, appeared to him the most extraordinary and unauthorized charge ever made in that House. He was very unwilling to introduce topics of so personal a nature into such a subject as the present; but if tricks and manœuvres were to be referred to, what was to be said of the tricks and manœuvres of those who, in order to obtain votes for the second reading of the bill, held out an expectation that the divorce clause would be abandoned in the committee, and, and that the bill would undergo very material alterations and modifications? Had it not been for that expectation, many a Noble Lord would not have voted for the second reading. But the Noble and Learned Lord on the woolsack, after a very eloquent speech in support of the divorce clause, concluded with voting against it; and in this conduct he was imitated by several other cabinet ministers, the very ministers who had themselves introduced the clause. (*Hear, hear.*) This, however, he supposed they had a sufficient reason for doing. Again, he must say, that he repelled with indignation and disdain—and he was almost inclined to use a much harsher word—the imputation that, for any earthly object, he would consent to practice tricks and manœuvres; and he appealed to their Lordships whether his intention, with respect to his vote, had not been openly and candidly avowed? Some might, perhaps, think that he acted imprudently or erroneously, but nobody could think that he acted in a way to deceive the House, or to entrap them into a decision, of the consequences of which they

were not fully aware. Now with respect to the question of his vote, he must observe that nothing was more common in parliamentary practice, nothing more justifiable according to the precedents of former times, and nothing more correct in principle than when a person felt a fundamental objection, either to the principal or the details of a measure, that he should endeavour to clog it in any stage with conditions calculated to produce its rejection by the House. (*Hear, hear.*) But he had not been driven to this expedient, for from the beginning, he had objected to the suggestion for omitting the clause. He had on several occasions declared his opinion that it was inconsistent, anomalous, and absurd, if it was thought fit to degrade the Queen by this bill, to say that the King also should be degraded, which was in fact the consequence of passing the bill, and allowing her to remain the wife of his Majesty. He had several times repeated that proposition; and he was prepared to argue it, because he believed certain scruples weighed strongly against it, when, with surprise, he heard some of the principal heads of the church declare that they had no objection to the clause on religious grounds. He had then, had he been a supporter of the bill, sufficient reason for the retention of this clause. His difficulty arose solely from his being an opposer of the bill. Though he voted against the bill altogether, it did not follow that he should vote for leaving out a part, which would only have the effect of putting it into a shape, which, while it degraded the Queen, still left her the wife of the King. Every hour's reflection, every thing he had heard, or read, or thought on this bill, convinced him more and more that the charge in the preamble of the bill was not made out. Having voted all along on this principle he had a difficulty in voting for a clause which appeared to contradict his former votes. It had therefore been his intention not to vote at all, on the question for leaving out that clause. As he had said, some might think that he acted imprudently in voting for it, but he certainly could not be accused of want of fairness, still less of trick and manœuvre, when he had openly declared that his reason for retaining the clause was to get rid of a most dangerous, a most portentous, and which he believed in his conscience, would, if it passed, prove a most fatal measure. He did not, therefore, think he was justly liable to the imputation which had been thrown out, and he should have thought that it was one from which his Noble Friend would have abstained, from personal reasons, if from no other; for his Noble Friend could not but recollect the means he had himself pursued, in order to procure the rejection of measures which he did not approve. In what he had done he could not be accused of departing from the strict line of his duty, of

abusing any confidence which had been reposed in him or of in any way deceiving or misleading their Lordships. He had never, while a member of that house, endeavoured or wished to disguise his feelings and his opinions on any subject. On this occasion he had acted with the same openness; and though he might, perhaps, be guilty of some indiscretion in giving his Noble Friend the advantage which he had taken, he believed none of their Lordships would join in accusing him of unfairness. (*hear, hear.*)—He agreed with the Noble Lord on the bench near him (Lord Ellenborough) that those who voted for the second reading of the bill, in hopes of its being altered in the committee, had been grossly deceived; but of course this was not done by any trick or manœuvre. He joined in the appeal made by the Noble Lord, and that such of their Lordships as had been thus deceived were in duty bound to consider the situation in which they were now placed. They had been induced to press the bill into a stage in which the objectionable clause could not be got rid of without rejecting the bill on the third reading. He hoped that those Noble Lords who had given a pledge that they would not vote for the bill with the divorce clause, would now redeem that pledge, and get rid of the bill altogether.—He had thought it necessary to say thus much in repelling the charge brought against him—a charge doubly painful, considering the quarter from which it came. He might be in error; the reasonings on which he founded his opinions might be fallacious; but he had never concealed them from the house; he had declared them, and acted upon them, and utterly disclaimed any kind of unfairness.

The EARL of LAUDERDALE after what had passed, thought it necessary to say a few words. If he were capable on any account of saying what could by possibility detract from the character of his Noble Friend, it would be infinitely more painful to him than any thing that ever happened to him in the course of his life. He had not said that his Noble Friend had been guilty of any unworthy trick or manœuvre. What his Noble Friend had done was a parliamentary trick often practised, as had been stated, even in the best of times; and he would refer to his Noble Friend whether such trick and manœuvre had not always been, when resorted to, met in the way he had endeavoured to meet it, by warning those against whom it was directed not to yield to it. He could assure his Noble Friend that, on all occasions, he could have but one feeling towards him—a feeling which had long existed, and must continue with him to the end of his life. With respect to the Noble Lord's voting for the divorce clause, in expectation that the Bill would thus be rejected ultimately, all that he could do was fairly to state, as he had, that such were his

intention and object. His (Lord Lauderdale's) intention was to prevent any Noble Lord from being led astray by a parliamentary manœuvre.

The EARL of LIVERPOOL said he would fairly ask their Lordships whether, in any stage of this proceeding, he could be justly accused of holding out any expectations? He had merely stated, on the second reading of the Bill, that no Noble Lord ought to feel precluded from voting because of any objection he might have to parts of the preamble, or to the clause of divorce, both of which would be open to discussion in the committee. He had always stated most distinctly that the preamble was, in his own opinion, most substantially proved, and he could therefore never have held it out as his opinion that any material alteration would eventually take place in it. At the same time he perfectly agreed with the noble Lord opposite (Ellenborough), that if any Noble Lord had voted for the second reading of the Bill, in the expectation that important alterations in the preamble would be made in the committee which were not made, it was perfectly open to him to vote on the third reading, as if he had not voted for the second. (*Hear.*) With respect to the divorce clause, he would also ask if any one could fairly accuse him of trick or manœuvre respecting it? Had he not, from the beginning, represented that this was not an act for personal relief, but for the remedy of a great public grievance? Had he not stated that, though, in his own opinion, there was no just objection to the divorce clause, even as a public measure, yet, if it were hostile to the religious prejudices of any considerable number of their Lordships, he did not think it a matter of so much importance as to make him go counter to those prejudices? Whether his conduct had been right or not, no person could impute to him that he acted from unfair motives, or in any other than the most open and undisguised manner.

LORD ELLENBOROUGH said that his observation was not meant to apply to those who had been disposed to support the whole of the Bill, and who only voted against the divorce from ideas of expediency or of deference to the feelings of others. But he had said, and he now repeated that there were others, who had, on religious grounds, voted against the divorce. (*Hear, hear.*) Now, he held it to be impossible for any who had voted against the divorce clause on religious grounds not to vote against the third reading of the Bill. It would not, in his view, be sufficient that they should stay away, and not support it, because whoever permitted the commission of a crime which he might by his presence have prevented, was himself guilty of aiding in the commission of it. (*hear, hear.*)

LORD CALTHORPE thought the vote which the Noble Earl near him (Lord Grey)

had given on the divorce clause was perfectly consistent with all that he had ever heard from him on the subject of this proceeding. He owed it, at the same time, in justice to his Majesty's government, to say, that he could not conceive any thing more becoming the ministers of a country like this, than, when they found any previous declarations of their own hostile to the public feeling, to show proper respect to that public feeling by voting as they had done yesterday; and that he considered them as having acted from respect to the religious prejudices of the most conscientious, the best, and the best-informed men.

The EARL of DONOUGHMORE thought the House had been engaged too long in a most irregular course of proceeding. What had been the foundation of this discussion? Did it not originate in a recommendation, nay, almost a direction to certain Noble Lords, as to what part they were to take on the third reading of the bill? What else were they discussing but an advice from certain Lay Lords to the consciences of the Rev. Bench of Bishops, respecting the ultimate vote which they should give on this most important proceeding? (*Hear, hear.*) Really, a more irregular, or misplaced conversation he had never heard during the fifty or sixty days that he had been engaged in this inquiry. One word he begged to say on the conduct of Ministers. Yesterday he had opposed them strongly in the part they took; but he did not imagine that they had acted at all inconsistently with any of their previous professions. They had acted, indeed, quite right in doing as they did; they had given no pledge; they had left the House entirely free on the subject before them. The Noble Lord proceeded to eulogize most particularly the conduct of the Noble Earl, from the noise in the House we could not collect whether the allusion was to Earl Grey, or to the Earl of Liverpool, for whom he had always entertained the highest respect—a respect which had been enhanced by the part he had taken throughout the present proceedings. (Here strong symptoms of impatience became general throughout the house. Lord Ellenborough, who sat very near the Noble Earl, rose and put on his great coat.) “I do not,” said the Noble Earl, with some warmth, “assume any consequence to myself; I behave always with decency towards others, and I expect to have the same decency observed towards myself; but I will not allow that, at the termination of this most awful proceeding, the house shall in any case, through the assumption, the indiscretion, or call it what you will, of any Noble Lord, be turned into a sort of bear-garden.” The Noble Lord was allowed to proceed in silence to the conclusion of his encomium. It was in the highest degree complimentary. His Lordship dwelt parti-

cularly on the watchings which they had all witnessed of the Noble Earl's ingenious mind, and the single desire by which he seemed actuated to discover the truth. It was essential to public confidence, in the present times, that such candour and firmness should appear in leading public men.

The LORD CHANCELLOR said, that the only question before the house was, whether a word of three letters, the word “*the*” should stand part of the preamble or not? and he did not imagine that much light could have been thrown on that point by the sort of canvass which had been going on—for he could call it nothing else—as to the vote on the third reading of the bill. After what had fallen from the Noble Earl (Grey), he thought he should be forgetful of what was due to himself, to the house, and to the country, if he did not disclaim, in the most pointed manner, having ever stooped to the unworthy practice of attempting to lead the votes of their Lordships by any thing like trick or manoeuvre. (*Hear.*) He had never stated one single word, in the whole course of his long proceeding, respecting the power of their Lordships to modify the preamble or enactments of the bill, which he would not now repeat. As to the vote of yesterday, he had felt himself bound in honour, after the declaration made by a Noble Lord opposite (Lord Lonsdale), to pay deference to the religious prejudices entertained by that Noble Lord, in common with many others; although, for himself, he thought those prejudices altogether without foundation.—This opinion he again, as he had done before, openly avowed. He thought the clause of divorce equally justified in a religious as in a legal sense, and, if the bill passed, that clause ought also to pass.

The DUKE of HAMILTON rose to move an amendment upon a subject which he had before mentioned; it was, to leave out the words “*licentious, disgraceful, and adulterous intercourse.*” To the words “*adulterous intercourse*” he had the most decided objection; but he would not enter into a discussion of it now. He would reserve any discussion of the subject till the third reading. He now merely moved that that part be omitted. It followed, of course, that he objected to the punishment for adulterous intercourse. The offence not being legally, sufficiently, and demonstrably proved, the punishment could not be justly enacted. But a Noble Lord having mentioned his intention of moving the omission of the punishment, he only noticed it here as a corollary of his proposed omission. He moved that “*and adulterous intercourse*” be omitted.

The EARL of LAUDERDALE said the words to be omitted ought only to be “*and adulterous,*” as “*intercourse*” must be retained for the sense of the passage.

The Duke of Hamilton nodded assent.

The Lord Chancellor put the question, which was negatived without a division.

The EARL of LAUDERDALE moved that the words "which continued for a long period of time, during her Royal Highness's residence abroad," be omitted, because the time expressed was indefinite, and because it did appear to extend further than evidence. The words were altogether unnecessary.

The EARL of LIVERPOOL said he would not object: the words were subject to some ambiguity; but, in his view of them, they were borne out by the evidence. But they were unnecessary, and he would not object to the omission of them.

The EARL of ESSEX said that the evidence, such as it was, came down only to the end of 1817. It seemed, therefore, at least more extraordinary to find adulterous intercourse proved upon no evidence at all, for two years further, than to find it proved upon false evidence for three years preceding.

The LORD CHANCELLOR observed that, where the charge was for adulterous intercourse, it was not necessary to specify time and place; if a single act of adultery was proved, that was enough.

The EARL of LIVERPOOL said he was willing to leave out the words "for a long period of time."

The EARL of MINTO thought the whole of the period should be left out.

The EARL of HARROWBY said that, in order that it might not appear to have occurred during any part of the time her Majesty was in England, it was necessary that the words "during her Royal Highness's residence abroad" should be retained.

EARL FITZWILLIAM asked the Noble and Learned Lord on the woolsack to explain what this amendment was.

The LORD CHANCELLOR was proceeding to state the various gradations of the motion, and amendments, when

The EARL of LAUDERDALE with drew his motion, for the purpose of the Noble Lord (Harrowby) moving, as proposed, to add, after the words "various places and countries which her Royal Highness visited," "during her residence abroad."

The LORD - CHANCELLOR said that, as the words occurred again in the enactments, the motion must be made on the third reading.

The EARL of LAUDERDALE with drew his motion, with the understanding that the Noble Lord would move, to the effect stated on third reading.

EARL FITZWILLIAM said the adulterous intercourse had, in his opinion, by no means been proved: but he called on those Noble Lords who held an opinion that her Majesty was guilty, to limit the period, dur-

ing which they alleged that she had been engaged in the criminal intercourse, to a portion of time previous to the year 1817, as no proof whatever had been brought forward of her communicating with the individual named in bill after that period. To refuse to adopt this principle would be extreme injustice to the unfortunate accused.

The EARL of CARNARVON said he rose to move an addition to the preamble, after the word "abroad," of which he had given notice formerly. He proposed to move it with the view that it might appear on their Lordships' journals what was the real cause of this Bill of Pains and Penalties.—No part of her Majesty's conduct abroad had made it necessary for their Lordships to adopt this proceeding, if it was necessary to adopt it. It was not even her conduct after her return that constituted any such necessity: because, since the necessity of this measure was ascribed to the legal difficulty arising from the offence being alleged to have been committed abroad, it followed that her return would have prevented the necessity. Supposing her Majesty had acceded to the conditions proposed by ministers, in connexion with another great body (the House of Commons), would there not have been an end of every idea of necessity to proceed against her? Her conduct, then, in refusing to accede, was the conduct which "brought great scandal and dishonour on his Majesty's family and this kingdom." (*Cheers, and laughter.*) This was so true that it would be improper for him further to argue it. A Noble Lord (Elleuborough) had said that the homage of that house had not been proffered. Most undoubtedly their Lordships had not proffered their homage, but they had done what was equivalent—they had appointed a secret committee: but after the propositions he alluded to had been made, their Lordships adjourned the meeting of that Committee from time to time till they were disposed of. If the homage of that House had been proffered by persons who had not constitutionally a right to proffer it, but if it had been stated that Ministers would have no objection, it was equivalent to a proffer. Be that fact as it might be, a treaty had been entered into, and this he did know, that if that treaty had been acceded to, his Majesty's Ministers had pledged themselves to withdraw the proceedings which they had instituted. He moved that, after the word "abroad" should be inserted, "and subsequently to her return refused 50,000L a year of the public money, and the proffered homage of both Houses of Parliament."

The LORD CHANCELLOR put the question, and said the "Non-contents" had it.

LORD KING moved that the enactments of the bill should be thus altered:



—“ And whereas, certain Commissioners, who were appointed to proceed to Milan, together with one Vilmarcati, an Italian advocate, have collected a mass of false or questionable evidence, and whereas the same has, during many weeks been detailed to the House and the public, whereby great scandal and dishonour have been brought upon your Majesty's family and this kingdom: therefore, to manifest our deep sense of such scandalous, disgraceful, and vicious conduct on the part of the said Milan Commissioners, by which they had ‘violated the duty they owed to your Majesty, and have rendered themselves unworthy of the confidence placed in them:’ and to evince our just regard for the dignity of the Crown, and the honour of this nation: We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons, in Parliament assembled, do humbly entreat your Majesty that it may be enacted; and be it enacted, by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that the persons who have acted as commissioners at Milan, from and after the passing of this act, shall for ever be disabled and rendered incapable, and are hereby disabled and rendered incapable, of receiving any reward (*great laughter*), or of holding any place of trust, profit, or emolument, under the crown.” (*Loud laughter.*) By leaving out the words “Caroline Amelia Elizabeth,” and the other words which refer to her Majesty, and introducing the words now moved, the bill would still be a Bill of Pains and Penalties, and it would be directed to the proper object. (*Cheers and laughter.*)

The LORD CHANCELLOR read the amendment proposed amid much laughter, and said “Not-contented” had it.

The LORD KENYON then addressed the house from the gallery, opposite the ministerial side. He said, if he could by any means have brought himself to consent to the present bill, which he believed to be most odious and unjust, still he could never have assented to the divorce clause. His objections to that clause rested on religious feelings; they were founded on these words of our Saviour:—“Whoso putteth away his wife, except for fornication, causeth her to commit adultery.” His objection was founded on religious scruples. Any man of plain understanding must see that divorce in the present case was inconsistent with Scripture. He had witnessed, with the greatest pain, any difference of opinion on this subject among the right reverend bishops. Nothing could ever obtain his consent for retaining this clause. National expediency was not to be put in competition with religious principle.

What man, holding Christian principles, or believing the Christian faith, could divorce, even for adultery, from a husband who was stated, by the divine Author of Christianity, to have caused adultery? (*Hear, hear.*) His Lordship proceeded at some length to enforce his opinion that the divorce was plainly opposed to the words he had quoted, and commented with considerable strength on the explanation which had been given of the text by a learned prelate on a former day—that it applied only to local circumstances, and to a particular institution of the Mosais law. That explanation he could not agree to, having always been taught to consider the sermon of our Lord, in which those words were used, as a fixed rule of Christian morality, and a precept of universal application, to remain in force and observance as long as the Christian religion should endure, which would be to the end of the world. His Lordship concluded by moving that the whole of the words, after the words “any of them,” be omitted—namely, “And, moreover, that the marriage between his Majesty and the said Caroline Amelia Elizabeth be, and the same is hereby, from henceforth, for ever, wholly dissolved, annulled, and made void, to all intents, constructions, and purposes whatsoever.” This motion was immediately negatived without a division; and the House adjourned, at 12 o'clock, until 10 to-morrow morning.

### House of Lords,

FRIDAY, NOVEMBER 10, 1820.

After the House had been called over, the Earl of Liverpool rose, and moved the order of the day for the third reading of the Bill of Pains and Penalties. The order was accordingly read by Mr. Cooper, the clerk; and the Lord-Chancellor put the question, that the Bill be read a third time.

The EARL of MORLEY having been one of those who thought that what had happened subsequently to her Majesty's arrival in this country had been such as necessarily led to the present inquiry—at the same time, thinking, then, as he did now, that his Noble Friend on the opposite side of the House, in submitting this measure to parliament, had only acted consistently with what appeared to be his duty; and that he had been impelled, irresistibly impelled, by the circumstances, to prepare this bill; and that the measure, whether it commenced wisely or not, had at least been begun in good faith—he had given his support to the antecedent stages of the bill, on the ground that the mode of proceeding was the most convenient for the proposed investigation. When, therefore, on Monday last, he voted against the second reading, as he intended to do that

day against the third, it was from a full conviction that the charges were not substantially made out—that they were not, as they ought to be, incontrovertibly established.—Any case of this kind required undoubted proof, but more particularly a case in which the charges were made the ground of enactments, which, if he did not call them revolutionary, were certainly anti-monarchical.—The bill, their Lordships ought to consider, comprised no less a period than six years; and yet the evidence did not refer to any one single day, during the whole of that time, in which any distinct act of adultery was proved by a credible witness. The period to which the charges applied, had, as well as the charges, been selected by the promoters of the bill, and, doubtless, the most unremitted inquiries had been instituted into the conduct of her Majesty, and the greatest endeavours had been made to obtain substantial proof of the charges; and yet, notwithstanding the very great length of time which had elapsed, the fact was, as he had stated it, that there was not the least proof of any act of adultery. Inferences certainly might be drawn from some parts of the evidence—inferences, he would admit, of a very strong nature; but was it just to draw such inferences when the time within which these opportunities of proving the evidence was so long? Had the case been one of six weeks instead of six years, there would have been a better reason for admitting this proof by inference, and he would then have been ready to allow it all the weight which was due to it. But the distinction was obvious; for, in proportion as the period of the alleged adulterous intercourse was extended, the more direct and incontrovertible ought to be the evidence, because it was clear that, in proportion to the length of the time, the opportunities for proof of the fact were increased. The supporters of the bill were, therefore, not entitled to exact for inferences, in this case of six years, the same degree of belief as might be given to them in a case of six weeks. In this stage of the business he did not think it necessary to go into the details of the case, and to state all the grounds on which he thought that the evidence was not proved. Much had been said respecting the voyage home, and some Noble Lords who supported the bill had rested their votes entirely on what had occurred on board the *polacre*. He must say, however, that he could not join in the conclusion which had been drawn by these Noble Lords from the evidence on that part of the case. It was absurd to say that, because so and so had happened, such and such must unavoidably have been the case. Such sweeping conclusions were not to be drawn. They were not only at variance with truth, but at variance with all the practice of the courts and decisions of modern times. The former

rules, with regard to proof of adulterous intercourse, which had obtained for a long time, were now abandoned, and others of a milder form substituted in their place. Formerly, in cases of separation of man and wife, and in cases of divorce, if the wife became pregnant at a time when she and her husband were included within the four seas—in other words if there had been human possibility of their having had intercourse—the issue was legitimate. Modern practice had allowed the husband to negative the possibility, or to show by circumstances that he was not the father. If the law were thus exact and scrupulous as to proofs of the sexual intercourse, even where that intercourse might be legally enjoyed between authorized parties, how much more scrupulous and exact ought the proofs of that intercourse to be when they were to be made the grounds of a guilty accusation, and were to lead to the enforcement of severe and degrading penalties? This alteration of the practice had been formally laid down by the judges, in an opinion delivered on the 11th of May, 1811; and that opinion was unanimous. Either the adulterous intercourse commenced before the Queen boarded the *polacre*, or it had not. If it did, many distinct acts should have been proved previous to that period: if the criminal intercourse had not commenced before that period, it was almost impossible to conceive that it could have originated in that vessel, under the circumstances which had been described. He would shortly state the reason which induced him to doubt the evidence on this point, and to dissent from the conclusion which had been drawn from it. It had been proved that it was the custom in eastern countries for persons to repose without undressing; and it had been stated by the Counsel at the bar, that it was the custom of the Queen and Bergami to repose under the tent; but it had not been proved that this was a regular practice; and, besides, it was admitted that they were always, as was the custom of the east, both dressed, and that their couches were at a considerable distance from each other. It was also to be considered that the tent was open from below, and could be opened at the sides, and that the persons belonging to her Majesty's suit might enter at any moment of the night. It besides appeared that, during the whole night, this tent was closely surrounded by the ten or twelve foreign seamen who had the watch on deck. When all these circumstances were considered, it was difficult to suppose that that place would have been chosen for committing the act of adultery, when the parties could have retired to a cabin, where they would have been secure from all observation. It had been said that less evidence had been thought sufficient for many bills of divorce; but he doubted whether there was

ever before a case in which it was, he would not say proved, but even alleged, that the parties had wilfully selected, for the commission of the act of adultery, a place which they knew to be surrounded by a number of individuals, and in which they were every moment liable to interruption and exposure. Nothing was, then, so improbable as that her Majesty should select the palace for an adulterous intercourse, which was so extremely unfavourable as to render it nearly impossible, and, if possible, to render its detection almost inevitable. With respect to the principle of the Bill, he certainly did think it highly objectionable. He was a decided enemy to condemning any body, whether prince or peasant, by an *ex post facto* law; and he thought every attempt to make the personal conduct of the King or Queen, or any member of the Royal Family, subject to punishment in cases where that personal conduct did not affect the public safety, was an attempt hostile in the highest degree to the spirit of the constitution. Suppose that the Royal Duke at the head of the army conferred titles and dignities on his favourite officers, had balls at his palace, and pursued such conduct as might be deemed licentious, would that be thought sufficient ground for cutting him off from the succession to the throne? And suppose the infant daughter of an illustrious Duke now no more, should, when she arrived at maturer years, conduct herself with impropriety as a single woman (the careful education this Princess would receive, he was aware, rendered such a supposition improbable), would that be deemed sufficient ground for depriving her of her right of succession to the Crown? If ever the principle was admitted of divorcing the King or the Queen, except in cases where the public safety required it, what dangers would they not run? The security of the throne and the safety of the state itself must be hazarded. No man was more sensible of the advantages of virtue and moral character in the Sovereign than himself, but these were nothing to the advantages of hereditary succession. Princes could not be expected to be more wise or more virtuous than other men; and he begged their Lordships, keeping that principle in view, to compare the advantages which resulted from adherence to the rule with those which resulted from personal and private virtue in the Sovereign. The Noble and Learned Lord on the woolsack had deprecated the introduction of the topic of fear: he too deprecated it, because he apprehended the only effect of an address to that passion would be to facilitate the passing of the bill.

Lord Somers and Earl Fortescue rose at the same time: but the Lord Chancellor decided that the former Noble Lord first caught his eye.

LORD SOMERS then spoke in favour of the bill, as it seemed to him that the adultery

had been fully proved—an opinion he still which had been also declared by several Noble Lords who had voted for the second reading of the bill. He rested much on the evidence of Barbara Kress, who, he said, could not be brought to state any thing, by the most ingenious cross-examination, which could at all invalidate her testimony. He detailed the evidence she had given, and argued that no proof of adultery could be stronger. She had, after the arrival of Bergami, made up a large bed, in a room near the dining-room, into which the room of her Royal Highness opened, and no doubt could be entertained that she had done so by the Princess's direction. The Noble Lord adverted at some length to the evidence of Barbara Kress, relative to the circumstances alleged to have taken place at Carlisle, her Majesty's arm having been seen round Bergami's neck; the stains on the bed of Bergami, &c., which he considered a positive proof of adultery. (*Cries of question, question, from the gallery on the ministerial side of the House.*) He would not inquire whether this witness had come willingly or not, because he was not disposed to enter into what had been done by Baron Grimm, or any other foreigner; and as to what she had received for coming over to give her evidence, good God! their Lordships knew that, in their own country, a witness could not be brought to appear in a court of justice without an adequate remuneration for the loss of time. (*Question*) Upon the whole, he must say that this woman's evidence was as clear, as unimpeached, and decisive of adultery as could possibly be obtained; and if it were not admitted, it would be impossible to bring proof in any such case, or to rely on any evidence whatever.—With regard to the testimony of the Queen's own witnesses, he certainly could not blame any of them for having a strong reluctance to inculcate their mistress, who, it was admitted on all hands, had been very kind to them all. The Noble Lord had on occasion to complain that the *Morning Chronicle* had been pleased to say, that he (Earl Somers) had heard only one or two days' evidence, and he appealed to their Lordships whether that statement of that paper was not a direct falsehood. (*hear.*) Illness, indeed, did prevent him from hearing Lord Flynn's evidence, but he had read it carefully over. Mr. Hownam, one of the witnesses for the Queen, when pressed on the point, had admitted that Bergami slept under the tent: and taking the other evidence into consideration, that fact amounted in his (Lord Somers's) opinion, to positive proof of the act of adultery. The proof was further corroborated by the sudden elevation of Bergami, and by his being admitted to her Majesty's table and society. He next adverted to the story of De M...

about the visit to the Theatre San Carlos, and contended that, although that witness's evidence was certainly not to be viewed without suspicion, yet it should not be thrown aside altogether. Dr. Holland, he apprehended, had said nothing to shake De Mont's evidence on this subject; it was in fact materially in favour of the truth of her statement that Dr. Holland did not know in whose company the Princess went to the theatre on that occasion. If she had gone with any proper attendants, would not some of them have been called for the defence? The Noble Lord then made some remarks on Lady C. Lindsay's evidence, and on the circumstance of all Bergami's relations, except his wife, being taken into her Majesty's service. Whatever might be De Mont's character, and whatever credibility was due to her testimony, it was clear that, in writing the letters which had been produced, she intended them to be seen by her Majesty; it was evident she had some object to gain; whether it was to reinstate herself in her Majesty's service, or to keep her sister there, he knew not. [He next proceeded to make some remarks on the subject of the Milan commission; but their purport we could not collect, on account of the noise occasioned by cries of "question," and by Noble Peers passing from one part of the house to another.] He trusted that, in giving their votes upon the last and most material stage of this important business, their Lordships would not feel themselves governed by any thing which might have before occurred; but only consider whether, under all the circumstances of the case, and on the whole of the evidence, they were prepared to pass the bill. He had, however, no doubt, that the House would act upon that principle of candour which had distinguished it for ages, as he should also vote upon those conscientious motives by which he had through life been actuated on similar occasions.

EARL FORTESCUE then addressed their Lordships in a very low and indistinct tone. We understood his Lordship to say, that, notwithstanding his great objections to the measure, he would have supported the divorce clause upon principles similar to those which had influenced some of his noble friends; but on the general question of the bill, he was exceedingly grieved to say, that he found himself in decided opposition to a Noble Friend of his (Lord Grenville), from whom, as this was the first, so he hoped and trusted it would prove also the last occasion of any difference between them, on any subjects of great political interest. An understanding had prevailed, a sort of promise had been held out, that in a subsequent stage of the proceeding the preamble of the Bill would be so modified in a committee as to meet all the charges upon that footing on which the result of the examination of evidence might leave them.

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Without specifying in what manner that evidence had been affected, he would merely observe, that the principal alterations which appeared to have passed the committee were the omission of the word "the," and the alteration of Bartolomo to Bartolomeo. How far these variations could meet the difficulties of the case he really did not know. Upon a question of divorce, upon a question of personal conduct, as regarded the Queen, he (Lord Fortescue) requested their Lordships to consider that they had imposed upon her all the moral obligations, without any of the comforts, of a wife. For the last 20 years, nearly, she had been living in an uninterrupted state of separation. His Lordship went on to argue upon the impropriety of agitating such a question as the present, attacking the private conduct of a person in so exalted a situation. They who were thus elevated in rank were subject, however, to the same human infirmities by which the rest of mankind were affected. It was notorious that individuals in that sphere had, in all ages, been guilty of faults and errors; and even crimes had been but too frequently committed by them. This was true, indeed, in fact; but it had been always judged advisable and proper to throw the thickest veil over such offences, when occurring among such classes of society. Their Lordships must be aware of the numerous examples of this kind which the history of other countries had furnished; and, if such was the case in those instances, why should it not hold good in this? He should suggest that such would be the course most consistent with a due regard to that high dignity which the agitation of this measure must affect, and, above all, to public opinion, by which that high dignity was at all times best sustained. He would gladly hope that the mischief which had been already done was not irreparable; but he trusted that their Lordships, acting in their high situation, as the hereditary counsellors of the King, would concur with all the other orders of the country in the line of conduct on this occasion best calculated to sustain the honour and dignity of the throne. The first step towards this object (we understood the Noble Earl to say) would be to get rid of a measure but too likely fatally to compromise them both. This was a means by which (if by any means it was possible) it might be yet in their Lordships' power to repair the mischiefs which had been occasioned, and to avert the dangers which they threatened.

The DUKE of BEDFORD and the LORD CHANCELLOR then rose. The call of the House appeared to be in favour of his Grace, who accordingly proceeded.—He was exceedingly sorry to occupy their Lordships' time, especially as he was to precede the Noble and Learned Lord who appeared to be on the point of addressing them; but he had very few words to offer on this occasion.

N 5



Unwilling, as he at all times was, to obtrude himself upon their notice, he felt still more unwilling to do so at the present moment, after the many able speeches which had been made by several of his Noble Friends: but he felt that he must express his decided dissent from a measure, which was, in his opinion, and in the emphatic words by which it had been elsewhere characterised, "derogatory from the honour of the Crown, and injurious to the best interests of the nation." (*Hear.*) He had refrained from giving an vote upon this question when the Bill was in a Committee, because he felt that he could not conscientiously vote for it, without admitting that the Queen had been guilty of adultery and of indecency, and thereby dishonouring both her Majesty and the King. It was with extreme astonishment, however, that he saw his Majesty's ministers opposing the divorce clause, thus consenting to the emasculation and the mutilation of their own measure, and depriving it of that feature which alone could indicate their own belief in the premises. He confessed that he was quite surprised to hear the Noble Lord at the head of the Treasury commenting upon that evidence and those premises in the way he had done, assuming as facts all that the pure, the modest, and the immaculate De Mont, had been pleased to assert upon her examination. (Some signs of dissent were manifested among the Lords on the opposite benches.) Yes; he (the Duke of Bedford) understood the Noble Earl at least to argue as if he implicitly relied upon her testimony, which, even upon his own showing, was unsupported by any other part of the evidence except the deposition of Dr. Holland: but what was the fact? The testimony of De Mont was only confirmed by that witness upon the single point of her Royal Highness's presence in the theatre of San Carlos. The Noble Baron on the cross-bench had followed on the same side: but, if the Noble Lord would only take the trouble of referring to the evidence of Dr. Holland, he would find that it afforded but the solitary confirmation of the fact relative to her Royal Highness's visit to that theatre. There was another circumstance upon which the Noble Earl had commented with peculiar minuteness and severity—namely, that her Royal Highness had been guilty of the most unbecoming condescension in appearing at masquerades—on one occasion as Automaton, and on another as the Genius of History. Now, really, in treating the subject in this manner, the Noble Earl appeared to know very little what was the custom of German and other Foreign Courts, where it was the usage with persons in this high and superior situation in society to partake of these amusements, and to assume such characters as they chose: these, very frequently, for instance, being selected out of ancient and modern history,

or from among the Gods and Goddesses of the Pagan mythology. It was not necessary for him (the Duke of Bedford) he was sure, to recur more particularly to the instance of a Princess who was known to amuse herself in the same manner, but against whom the tongue of Slander and the breath of Calumny never were employed. It would not be required of him to go at length into the evidence; that had been already so amply and so ably commented upon, first by the Counsel at the bar, and afterwards by their Lordships in that House, that he was relieved from any necessity of recapitulating particular points himself. Upon the policy of such a measure at present, however, he would observe, that there were, as had been stated by a Noble Earl (Portsmouth), certain circumstances in the private history of most Princes and Princesses, which made it highly necessary that the veil should never too rashly be withdrawn, and that must endanger the fame and character, perhaps, even of those who stood highest, and deservedly highest, in the opinion of the world. For the truth of this maxim they need not travel very far; the history of these times, or, at any rate, the history of this country abounded with cases which established it in proof. Let their Lordships look at the private life of the great Elizabeth herself (*hear, hear*); and then he would ask them, supposing that she had been infested by a Baron Ompteda (*hear, hear*), surrounded by spies, and watched by corrupted domestics, who forced open private locks, violated her confidence, stole upon every moment of her privacy, and noted down every expression—he would ask their Lordships what would become of the boasted magnanimity and the boasted glories of the character and reign of that illustrious Princess? (*hear, hear.*) And, more than this, the same excess of condescension, the same kind of familiarity to her inferiors, which were imputed to the Queen in this case as part of her offence, were also animadverted upon, somewhere, by Lord Bacon, as very observable in the conduct of Elizabeth, who, in the latter period of her life, became so affable and so condescending to the officers of her court and household, as to incur some censure and imputation. Their Lordships could not fail to have seen with amazement, that, while the charge against her Majesty in this case was for a cause of criminal and improper conduct during 6 years, not a single circumstance occurring in the last 8 years of that period had been ever attempted to be proved in the case for the prosecution. (*hear.*) From 1817 to the present year not an iota, not a shadow of evidence, had been brought to prove the Queen's guilt: not one circumstance of impropriety was in that time adduced, although the charge was expressly extended throughout six years. (*hear, hear.*)

His grace went on to remark upon the anomalous nature of this proceeding. In answer to repeated inquiries they had been told that here the state was the prosecutor. It was necessary to know by whom the state was represented; and then they were informed that the King, in his constitutional capacity was the prosecutor. The King not appearing in this case, another enquiry still remained. When he spoke of the proceedings at that bar against this illustrious personage, he meant no reflections against either of the high parties concerned, because he felt fully persuaded that were acting most honourably in the conscientious discharge of their painful duty. What he wanted to know was this—"Who was the ostensible prosecutor?" Why, they found that the confidential servants of the crown were the prosecutors; yet were their Lordships told that there was nothing anomalous in the case. Good God! To his imperfect understanding there appeared to be nothing but anomalies. He would, however, trouble their Lordships no farther. He would only say—he must say—that if he was sitting in that house in his judicial capacity (and he could not admit that he ought to be so in this case,) and he was asked whether he believed the Queen to be guilty or not guilty of the charges imputed to her, he should answer most conscientiously, and from the bottom of his heart, being so called upon to pronounce on the question of her guilt or innocence—"Not guilty upon my honour." (*Cheers*) He should do so the more unhesitatingly, because, having come to this enquiry with strong prejudices against the Queen—as he confessed that he had come, owing to the various reports and misrepresentations which had been circulated against her—those prejudices had been since effectually dissipated; and therefore, and because he had looked at, and well weighed the whole of this evidence, he now uttered his opinion in the face of the House, "Not Guilty, upon my honour." (*Hear, hear, hear.*) Upon the whole, he felt himself bound to say, looking to the great impolicy and injustice of the bill, that he would not support it. (*Cheers from the opposite benches.*)

The LORD CHANCELLOR, in rising to express his sentiments upon this important occasion, observed that he had given way to his Grace the Duke of Bedford, being anxious that every Noble Lord should deliver his view of the great question upon which they were called on to decide. It did not appear to him, he must confess, to be totally impossible that any man should vote for the second reading of this bill, who did not feel himself entirely convinced (he did not mean as regarded a moral conviction only) of the guilt of the Queen. It was not, in that stage of the proceedings, his duty—nor did he think he need now at all address himself to that point, to enter into

any consideration of the policy of what might be to be done, should their Lordships think her guilty. He took the liberty to point out to their Lordships that it would be quite competent for them, provided they felt confident that the whole or part of the charges were substantiated on evidence, to alter the preamble of this bill, so as to assert or deny, first, every thing which they believed to be true, and which might be retained; and then every thing which was not made out upon legal evidence; and this they might leave out. Returning for a moment to the divorce clause, a majority of the house had voted in its support; but he would suggest to Noble Lords that it would be for them now to consider whether they would think it right to act upon that principle of the ecclesiastical courts, "where parties proceed for a restitution of conjugal rights, and where adultery is both a bar against restitution, and a plea of recrimination; or whether their Lordships would rather act upon the great general principles of the ecclesiastical law of this land?" His Lordship proceeded to show that it might be a question whether parties should be separated by a divorce "*a mensa et thuro*," or by a divorce only "*pro solute animi*," in which latter case the individual, however, may not be able to prove the adultery. The plain question here, however, was, what was just; his own opinion being that they could not act justly or fairly in voting for the bill, if they did not do so from an influence of her Majesty's guilt. In attending to the speech of a Noble Lord, who had alluded to some former observations of his, it did not appear to him (the Lord Chancellor) that he had made any statement which he could wish to retract. He looked upon himself, as he had more than once observed, as a co-juror with their Lordships; he looked upon their Lordships as co-jurors with him; and he then stated, what he now again asserted, that if, in the course of this proceeding, their Lordships, or any of them, found reason to alter their opinions, even up to the last moment, and the question was still to be put to him—if guilty or not guilty?—they would not fail to record that opinion. He should not say one word as to the expediency or policy of this measure: "but," continued his Lordship, "drawing a clear distinction between moral conviction and legal evidence, your Lordships must, however, decide on the legal evidence, which in other words means presumption of guilt. If your Lordships are not convinced of the guilt of the Queen on legal evidence, notwithstanding all that you have heard, you must vote against the third reading of the Bill. Your Lordships heard the other day a very able argument on the way in which judges estimated circumstantial evidence. I do not, however, say that there was much analogy between the cases cited by the Noble Lord (Granville) and

the present, not even in the case of murder: there the circumstances all bear on one point; there the first proof must be that the crime was committed, that a person had been murdered; and it is by circumstantial evidence that the crime is brought home to the guilty individual. I recollect a case, in which a man was found dead on the highway, shot through the head; there was no doubt of the murder having been committed; the wadding of the pistol was found clotted in the hair of the deceased; and on the head being washed, a piece of paper was found unconsumed. This fragment was also washed, being put in a basin of hot water; and being unrolled, proved to be part of a ballad, the remainder of which was found in the pocket of another person, who was apprehended on suspicion of being the murderer. Here were strong proofs. In cases of circumstantial evidence there are antecedent facts from which inferences may be drawn. But if your Lordships will only decide cases of adultery on the positive fact having been proved, it is necessary to avow such a determination, and to declare that all the divorces hitherto obtained have been wrong. Much will always depend on antecedent circumstances. Suppose a lady and gentleman going into a room and locking the door, which is afterwards forced, and they are discovered preparing to commit adultery, this would be no evidence of the fact; but if, a few days afterwards, the same parties lock themselves in a room for some hours, or be found for five weeks sleeping in the same apartment, would any one say that their preparing for committing the act, was not a strong antecedent proof that it was afterwards committed? Laying aside the evidence of Majocchi and De Mont, and looking at the uncontradicted evidence in support of the case, and the evidence for the defence, which afforded in this as strong a legal presumption of guilt as the evidence for the bill itself, and looking also at the evidence which might have been produced for the defence, and the non-production of which ought to have been accounted for;—looking at all these circumstances, I think it will be difficult for any man to lay his hand on his heart, and say "Not Guilty." I must again say that, if your Lordships are not convinced of the Queen's guilt on legal evidence, or moral conviction, no question of policy or expediency, can justify your finding her guilty. The noble and learned lord then alluded to the case at Trieste, in which there was first moral conviction, and afterwards legal evidence, that the Queen was not there more than a day and a half. "I feel gratified, and so I am sure will your Lordships, that I am now going to utter my last words on this great and melancholy question." The public might deal with him as it pleased; he should vote conscientiously, and only regarding the dictates of his own

breast. But, acting under that influence, he could not disengage himself from the moral obligation he felt under to vote for the 3d reading of this bill.

The BISHOP of CHESTER said he rose to explain the grounds of the conduct which he meant to pursue upon the present stage of the question before the house. He had given his vote for the second reading of the bill upon his full but painful conviction that her Majesty was guilty of the crime alleged against her in the preamble of the bill. As it appeared to his judgment, the crime of adultery could be proved by circumstantial evidence alone, and it also appeared to him that in the present case that evidence had been accumulated in an extraordinary and most convincing manner. If her Majesty still be innocent, he must say that instance never before in the annals of the world was so placed, or had to contend with such a combination of circumstantial and corroborative facts adverse to its character. In giving his vote for the second reading of the bill, he by no means intended to be understood as concurring in the divorce clause (*hear.*) He did not wish, in any thing which he was now about to say, to enter again into the consideration of the proof of her Majesty's guilt; but he thought the divorce clause was contrary to the established usage of the civil law in ordinary cases, and, more especially in such a case as this, against the divine law. Thinking it, therefore, against the precept of the divine law, and contrary to the whole spirit of the civil law, it was impossible for him now to vote for the bill with that clause. (*Hear.*) In voting against the divorce clause he begged permission to repel the insinuation that had been thrown out, that persons who voted against the divorce, but still for the other clause, were voting rather the degradation of the King than that of her Majesty. Such an insinuation was utterly repugnant to his intention in the course which he had taken or was about to take. (*Hear, hear.*) If there was one circumstance more degrading or abhorrent than another throughout this unhappy case, it was the manner in which the name of the King had been introduced in the discussions upon this bill. The House had heard one Noble Lord say, that if he were Archbishop, and called upon to produce the Book of Prayer to his Majesty, he would have flung it into his King's face sooner than do such and such an act. (*Hear, and a laugh.*) Counsel at the bar, participating in this improper feeling, had ventured, *O horresco referens!* to compare the present exercise of kingly power to the most abominable tyranny in the era of corrupted and imperial Rome. (*Hear, hear.*) This comparison was in the highest degree unjust and unfounded; it was totally unmerited (*hear*) for, in the future history of the world, the

national regency, under the guidance of the present Sovereign, would bear comparison with the proudest period in the annals of the history of any country. (*Hear.*) Having stated, respecting the bill, that he had voted for the second reading, he was under the necessity of adding that he could not vote for the third reading with the divorce clause forming a part of the bill. But he was in this difficulty—that after what had taken place, he could not bring himself to vote for the third reading, nor could he, approving of it generally, conscientiously vote against it. He must, therefore, with the leave of the house, withdraw when the division took place. (*Hear.*) He would sit down with this satisfaction, that he felt he had conscientiously discharged his duty—perhaps imperfectly—but assuredly with a sincere and honest desire to act justly and impartially. (*Hear.*)

EARL GROSVENOR said he did not mean now to trespass upon their Lordships' time with any detailed statement of his opinion against the bill; but, as an allusion had been made to an expression of his by the Right Rev Prelate who had just sat down, he begged permission to explain the phrase he had made use of. It was perfectly true that he had used the words imputed to him; but he had done so in this manner:—A rumour had prevailed—whether true or not, he at the time had said he could not tell—that the supporters of ministers had given out that his Majesty was the main cause of this unfortunate question being agitated, notwithstanding the decided voice of the country: and that it was the King himself who desired the Archbishop to omit her Majesty's name in the Liturgy. He had said at the time that he thought this rumour extremely improper, extremely indecorous, and discreditable to his Majesty's ministers; and, having thus stated his opinion of it, he certainly did declare that were he Archbishop, feeling as he did the evil which the erasure of the Queen's name was likely to entail upon the country, and participating the dangers which would attend such an act, so contrary to law, justice, and humanity, he should sooner than strike it out from the Liturgy, have thrown the Prayer-Book in his Majesty's face. And he had also said, that, under such circumstances, sooner than remain one of his Majesty's administration, he would have trampled upon the seals of office. (*Hear.*) Such were his sentiments upon the measures; and he implored the House to consider the situation in which it would be placed if, in decided opposition to the general sense of the country, they pressed this Bill with such a majority for its second reading as 28 in a House of 228 members present. That majority could never be supposed as giving the real occurrence of the House to a Bill of this nature. The more he thought of the

matter, the more decided was his impression of its obnoxious character. (*Hear.*)

On the question being loudly called for, LORD ERSKINE said, that, as the House was so naturally anxious for the decision on the bill before them, he should content himself with saying, notwithstanding his great respect for the learning of his Noble Friend on the woolsack, that he continued of the opinion he had formerly given on the subject of the evidence declaring that, if it were the last word he had to utter in this world, he should pronounce it to be wholly insufficient to support the charge; nor could it have supported it in any court where justice was duly administered. The case had nothing to do with circumstantial evidence, but turned wholly on the discredit of the witnesses engaged in a manifest conspiracy throughout the whole body of the proof, which an intelligent jury would have rejected with contempt. The case of the supposed murderer, by the proof of the knife and bloody garment, must come to nothing in an instant, even after murder established by proof, if the witnesses to such facts had been heard to declare, after the murder had been committed, and the prisoner arrested for it, that no knife or blood had ever been seen by them, and that the accused was purely innocent. As to the Queen being guilty on the testimony of her own witnesses, he denied it altogether, for the reasons he had already given.

The DUKE of GRAFTON said, that upon looking into the whole of the evidence, he must pronounce a verdict of not guilty. (*Hear.*)

The MARQUIS of HUNTLEY said that he was satisfied of the guilt of her Majesty, and should therefore vote for the third reading of the Bill. The evidence of Lieutenant Hownam, alone, was sufficient to convince him of that, and he was only surprised how the Noble Lord opposite could entertain a contrary opinion on the subject; and he hoped that, considering the sincerity they evinced of her Majesty's innocence, they would add to it by letting their wives and daughters associate with the Queen. (*Hear, and a laugh.*) He was anxious not to give a silent vote upon this occasion, in consequence of the threats held out by counsel at the bar. (*Hear from the ministerial benches.*)

The MARQUIS of DONEGAL said that he had closely attended throughout the whole of these proceedings, and directed his attention as closely as possible to the examination of the evidence, both by hearing it in the House, and reading the Minutes at his leisure out of it. In his opinion the evidence of Majocchi and De Mont, which bore the burden of the proof in this case, was inconsistent. He pointed out that, when De Mont and Majocchi were asked as to the same fact, namely, the dress worn on particular occasions by her Majesty, they did not



give corresponding answers. His clear and conscientious vote was therefore against the Bill, which, he was sure, could never be rendered beneficial either to their Lordships or the country.

The BISHOP of GLOUCESTER rose, and stated that he could not concur in the divorce clause in this Bill, which, if not hostile to, was certainly inconsistent with, the spirit and tenor of the Christian morality and law. It did appear to him inconsistent with the standing order of the House on other occasions, and not according to impartial justice between the parties. This being his conscientious feeling regarding the divorce clause, he was compelled to vote against the third reading of the Bill. It gave him pain to vote on the present occasion against those for whose political sentiments he entertained a decided preference; he was sorry now to be compelled to differ from them, but he was obliged to do so to support the dignity of his episcopal character.

LORD ALVANLEY, we believe, said that nothing had occurred from Counsel at the Bar to authorize the allusion of the Noble Marquis opposite; indeed, they showed much better taste than he had in their choice of topic.

LORD ELLENBOROUGH, in voting against the bill, could not help making this observation—that among the strange peculiarities of this case was this, that the strongest evidence of her Majesty's guilt was to be derived from her own witnesses.

The EARL of DARNLEY rose amid loud cries of "question," and eulogised the speech of Earl Grey, which he said would be remembered as long as these extraordinary proceedings themselves would be. He implored those Noble Lords, whose opinions were yet wavering on the expediency and policy of this bill, to step forward in this its last stage, and to interpose their authority to stay a measure so pregnant with disastrous consequences. He trusted their Lordships would recollect that this measure was against the sense of the great mass of the Commons of England. He would not, for a moment, pay any deference to the opinion of the rabble; that he despised as much as any man; but the expression of public feeling to which he alleged was the almost unanimous opinion of all the respectable classes in society. He hoped their Lordships would consider these matters before they rushed on the consummation of a measure which was looked upon with disgust in this and almost every country in Europe—a measure which would (as we understood the Noble Lord) reflect disgrace on that once proud assembly. [At the conclusion of the Noble Lord's speech the cries of "question" were loudly repeated from all parts of the House.—Strangers were then ordered to withdraw.]

On the division there appeared—

|                                 |     |
|---------------------------------|-----|
| For the third reading . . . . . | 108 |
| Against it . . . . .            | 99  |
| Majority . . . . .              | 9   |

We have received the following report of what passed during the exclusion of strangers:—

LORD DACRE rose amid very vehement cries of "Order;" and as soon as the Peers had taken their seats he observed, that he had been intrusted with a petition from her Majesty, praying to be heard by counsel against the passing of the bill.—*(Much cheering.)*

The EARL of LIVERPOOL rose immediately, and said that he apprehended such a course would be rendered unnecessary by what he was about to state. *(Hear, hear.)* He could not be ignorant of the state of public feeling with regard to this measure, and it appeared to be the opinion of the house that the bill should be read a third time only by a majority of nine votes. *(Much cheering.)* Had the third reading been carried by as considerable a number of peers as the second, he and his Noble Colleagues would have felt it their duty to persevere with the bill, and to send it down to the other branch of the Legislature. In the present state of the country, however, and with the division of sentiment, so nearly balanced, just evinced by their Lordships, they had come to the determination not to proceed further with it. It was his intention, accordingly, to move the question "that the bill do pass" he put on this day six months. *(The most vehement cheering took place at this unexpected declaration.)*

EARL GREY rose as soon as the Earl of Liverpool had resumed his seat, but the confusion did not subside until after his Lordship had been for some time on his legs. His Lordship complained of the whole course ministers had pursued with regard to the bill, which, after the declaration of the Noble Earl, could scarcely be said to be before the house, but which was still before the country and would long live in its memory. *(Hear.)* He charged the servants of the crown with the grossest neglect of duty, in the first instance with listening only to *ex parte* evidence, and giving a willing credence to the most exaggerated and unfounded calumnies. *(Loud cheers.)* They had thus for many months agitated the nation—they had produced a general stagnation of public and private business—and they had given a most favorable opportunity, were it desired, to the enemies of internal peace and tranquillity. They had betrayed their King, insulted their Queen *(continued cries of "Hear" from all sides.)* and had given a shock to the morals of society by the promulgation of the detestable and disgusting evidence, in the hearing of which

the house had been so long occupied.—*(Hear.)* His Lordship also reprobated in the severest terms the conduct of the Milan commissioners, who, having been appointed not to investigate truth, but to obtain testimony of guilt, had found in this country but too great an inclination to put faith in all the stories their agents and witnesses might invent against the honour and reputation of the Queen of Great Britain. The result had been that, after inquiries, secret and open, after the grossest calumnies and the foulest libels had been made the subject of detail and debate for fifty days—after all the injury that it was possible to do the Queen had been accomplished, the bill was abandoned not without reason, but assuredly without apology. His Lordship concluded by assuring Noble Lords on the other side, that the people of Great Britain would not be satisfied with the mere withdrawing of the measure, but would demand a strict inquiry into its foundation and origin. *(Great cheering.)*

The DUKE of MONTROSE rose, (other Scotch Peers rose too, but gave way to his Grace.) He said he was as little deficient in conscience, courage, and spirit, as any man. He differed from both the Noble Earls, to whom he nevertheless gave ample credit for the best motives. He differed from Lord Grey, thinking the case proved: and from Lord Liverpool, in refusing to let the Lady, proved (he thought) guilty, continue his Sovereign's wife. He could not agree to thus dropping the bill. *(Some cries of hear, hear, from the Scotch Court Lords.)*

LORD ERSKINE addressed a few words to their Lordships in a manner truly emphatic and striking:—"I have heard (said he) "the proposal of the Noble Earl—I see "the fate of this odious measure consum-  
"mated—and I feel nothing but the most  
"lively and entire satisfaction. I heartily  
"rejoice in this event. My Lords, I am an  
"old man; and my life, whether it have  
"been for good or for evil, has been passed  
"under the sacred rule of the law. In this  
"moment I feel my strength renovated and  
"repaired by that rule being restored—the  
"accursed charge wherewithal we had been  
"menaced has passed over our heads—there  
"is an end of that horrid and portentous  
"excrecence of a new law, retrospective,  
"and iniquitous, and oppressive; and the  
"constitution and scheme of our polity is  
"once more safe. My heart is too full of  
"the escape we have just had to let me do  
"more than praise the blessings of the  
"system we have regained; but I cannot  
"praise them adequately myself, and I prefer  
"expressing my own sentiments in the fine  
"language of one of the most eloquent au-  
"thors of any age, Hooker, who thus speaks  
"in his great work on Ecclesiastical Polity:  
"Of law there can be no less acknowledged  
"than that her seat is the bosom of God; her

"voice the harmony of the world: all things  
"in heaven and earth do her homage; the  
"very least as feeling her care, and the great-  
"est as not exempted from her power. Both  
"angels and men, and creatures of what con-  
"dition soever, though each in different sort  
"and manner, yet all with uniform consent,  
"admiring her as the mother of their peace  
"and joy."

*(These fine sentences were pronounced by Lord Erskine in a tone peculiarly impressive and touching, and formed a very appropriate conclusion to proceedings in themselves so memorable.)*

The question was then put from the wool-sack, on the motion of the Earl of Liverpool that the question "that this bill do pass" be put on this day six months. It was carried *unanimè contradicente*, and almost by acclamation.

Order having been once more re-established, the Earl of Liverpool moved that the House should adjourn until the 23d of November, the day on which the Commons meet. It was also carried, and their Lordships immediately separated.

When the Lord Chancellor put the question on Lord Liverpool's motion for dropping the bill, several cries of "Not content" were heard from those who had echoed "Content" on the other stages; but the Lord Chancellor declared that the Contents had it, and the bill was thus flung out without a division, and amidst the loudest cheers ever heard in that "august" assembly.

#### LIST OF PEERS

#### WHO VOTED FOR AND AGAINST THE THIRD READING OF THE DEGRADATION AND DIVORCE BILL.

##### CONTENTS.

##### LORDS.

|                   |                      |
|-------------------|----------------------|
| Harris            | Salterford (Cour-    |
| Ross (or Glasgow) | town)                |
| Meldrum           | Stewart of Galloway) |
| Hill              | Stewart (Moray)      |
| Combarmere        | Douglas (Morton)     |
| Hopetoun          | Grenville            |
| Manners           | Suffield             |
| Ailsa (Carlisle)  | Montagu              |
| Lauderdale        | Gordon (Huntley)     |
| Sheffield         | Somers               |
| Redesdale         | Rodney               |
| St. Helens        | Middleton            |
| Northwick         | Napier               |
| Bolton            | Colville             |
| Carrington        | Gray                 |
| De Dunstanville   | Saltoun              |
| Rous              | Forbes               |

##### BISHOPS.

|               |             |
|---------------|-------------|
| Cork and Ross | St. David's |
| Landaff       | Worcester   |
| Peterborough  | St. Asaph   |
| Ely           | London      |

|                    |                      |                         |                     |
|--------------------|----------------------|-------------------------|---------------------|
| <b>VISCOUNTS.</b>  |                      | <b>King</b>             |                     |
| Exmouth            | Curzon               | Dundas                  | Belhaven            |
| Lake               | Sydney               | Selae                   | Clifton (Daraley)   |
| Sidmouth           | Hereford.            | Mendip (Clifden)        | Say and Sele        |
| Melville           |                      | Auckland                | Howard              |
|                    |                      | Gage                    | De la Zouch         |
|                    | <b>EARLS.</b>        | Fisherwick (Donegal)    | Clinton             |
| St. Germain        | Mount-Edgcombe       | Amherst                 | Dacre               |
| Whitworth          | Strange (Athol)      | Kenyon                  | Audley              |
| Verulam            | Abergavenny          | Sherborne               | De Clifford         |
| Cathcart           | Ailesbury            | Berwick                 |                     |
| Mulgrave           | Bathurst             |                         | <b>BISHOP.</b>      |
| Lonsdale           | Chatham.             | Glocester               |                     |
| Orford             | Harcourt             |                         | <b>VISCOUNTS.</b>   |
| Manvers            | Warwick              | Granville               | Leinster            |
| Rosse              | Graham (Montrose)    | Anson                   | Terrington          |
| Nelson             | Pomfret              | Duncan                  | Palmouth            |
| Powis              | Macclesfield         | Hood                    | Bolingbroke         |
| Edmerick           | Balcarras            |                         | <b>EARLS.</b>       |
| Donoughmore        | Hume                 | Blesington              | De Lawarr           |
| Belmore            | Coventry             | Bradford                | Rebester            |
| Mayo               | Rockford             | Morley                  | Egremont            |
| Longford           | Abingdon             | Minto                   | Fitzwilliam         |
| Mount-Cashel       | Shaftesbury          | Grey                    | Portsmouth          |
| Kingston           | Cardigan             | Gosford                 | Stanhope            |
| Liverpool          | Winchelsea           | Romney                  | Cowper              |
| Digby              | Bridgewater          | Rosslyn                 | Dartmouth           |
|                    | <b>MARQUISSES.</b>   | Caledon                 | Oxford              |
| Conyngham          | Cornwallis           | Raniskillen             | Rosebery            |
| Anglesea           | Backingham           | Farnham                 | Jersey              |
| Camden             | Lothian              | Garrick                 | Albermarle          |
| Northampton        | Queensberry          | Carnarvon               | Essex               |
| Exeter             | Winchester.          | Mansfield               | Thurlet             |
| Headfort           |                      | Fortescue               | Denbigh             |
|                    | <b>DUKES.</b>        | Hilsborough (Downshire) | Suffolk             |
| York               | Clarence             | Grosvenor               | Derby.              |
| Wellington         | Rutland              |                         | <b>MARQUISSES.</b>  |
| Northumberland     | Beaufort             | Bath                    | Stafford            |
| Newcastle          | Bl. Westmorland.     | Lansdown.               |                     |
| Lord-Chancellor    | Arch. Canterbury     |                         | <b>DUKES.</b>       |
|                    | <b>NON-CONTENTS.</b> | Portland                | Grafton             |
|                    | <b>LORDS.</b>        | Brandon                 | Richmond            |
| Breadalbane        | Ashburton            | Devonshire              | Somerset            |
| Erskine            | Bagot                | Bedford                 |                     |
| Arden              | Walsingham           | Glocester.              |                     |
| Ellenborough       | Dynevor              |                         | <b>ARCHBISHOPS.</b> |
| Alvanley           | Foley                | Tuan                    | York.               |
| Loftus (Ely)       | Hawke                |                         |                     |
| Fitzgibbon (Clare) | Sandridge (Argyll)   |                         |                     |
| Bayning            | Ducie                |                         |                     |
| Gwyder             | Holland              |                         |                     |
| Calthorpe          | Ponsonby (Beasboro)  |                         |                     |
| Dawnay (Downe)     | Grantham             |                         |                     |

|                    |     |
|--------------------|-----|
| Contents .....     | 108 |
| Non-Contents ..... | 99  |
| Majority .....     | 9   |
| In all .....       | 207 |

**House of Lords,**

THURSDAY, NOVEMBER 23, 1820.

The House met this day, pursuant to adjournment.

The Lord-Chancellor entered the House before two o'clock.

Prayers were read before strangers were admitted, and the Commissioners, viz. the Lord-Chancellor, the Earls of Liverpool and Bathurst, were then seated in their robes in the front of the throne.

The LORD-CHANCELLOR ordered the Deputy Usher of the Black Rod to summon the Commons to hear the Commission read, for giving the Royal Assent to a bill, and proroguing Parliament.

The Black Rod proceeded forthwith to the Commons, and soon returned with the Speaker, who was accompanied to the bar by a considerable number of the Members of the other House of Parliament.

The LORD-CHANCELLOR then stated, that his Majesty had been graciously pleased to appoint a Commission for giving the Royal Assent to the bill for relieving Lord Harbrough from certain disabilities therein named.

The Commission, authorizing the Royal Assent to be given to the bill for relieving the Noble Lord from the penalties he had incurred, from sitting and voting in the House without having taken the oaths, was read by the clerk.

The LORD-CHANCELLOR, in obedience to his Majesty's command, declared that his Majesty gave his assent to the bill mentioned in the Commission, and that the said bill thereby became in like manner as if his Majesty had signified his Royal Assent in Person.

The Clerk then pronounced the phrase used in giving assent to bills of this kind—viz., "*Soit fait comme il est desire.*"

The LORD-CHANCELLOR announced, that the Lords Commissioners had it in command from his Majesty to prorogue Parliament to a day mentioned in the Commission authorizing that prorogation, which would now be read.

The Clerk read the Commission authorizing the prorogation from this day to the 23d of January next.

There was no Speech read by the Commissioners, as usual, on the prorogation of Parliament.

The LORD-CHANCELLOR, therefore, immediately after the Commission had been read, said—My Lords and Gentlemen, by virtue of his Majesty's Commission, under the great seal, to us and other Lords directed,

and now read, we do, in his Majesty's name, and in obedience to his commands, prorogue this Parliament to Tuesday, the 23d day of January next, to be then here holden; and this Parliament is accordingly prorogued to Tuesday, the 23d of January next.

The Commons then withdrew, and the Commissioners left their seats, and retired.

Besides the Commissioners there were present only Lords Donoughmore, Ellenborough, Shaftesbury, and two or three others.

**House of Commons,**

THURSDAY, NOVEMBER 23, 1820.

The Speaker entered the House at a quarter before two. The gallery was not opened; but the following account may be relied upon:—

After prayers, Mr. SPEAKER acquainted the House, that John Henry Ley, Esq. was appointed by his Majesty, Clerk of the House of Commons, in the room of John Hatsell, Esq. deceased; and Mr. Ley took his seat at the table accordingly.

New Members sworn—Robert Challoner, Esq. for York City, and Francis Lawley, Esq. Warwickshire.

New writs moved for—for Berwick, in the room of Henry Heneage St. Paul, Esq. deceased—for Westbury, in the room of Nathaniel Barton, Esq. Chiltern Hundreds—and Jonathan Efford, Esq. East Hendred.

Mr. DENMAN then rose, about five minutes past two, with a paper in his hand, which he said was a communication from the Queen. (*Loud cries of hear, hear.*)

At the same time the Deputy Usher of the Black Rod entered the House, and advanced to the table, amidst the loudest cries for "*Mr. Denman.*" With these cries were mingled shouts of "*withdraw, withdraw.*" addressed to the Black Rod. Mr. Denman continued standing with the message in his hand, and did not for a moment give way to that officer. Not a word the Usher said was heard. His message was drowned amidst the most indignant and vehement cries of "*Shame, shame,*" from all parts of the House. His lips moved, but no sound was audible. After this mummery the Black Rod retreated, apparently much agitated. A pause ensued, when

Mr. TIERNEY rose and observed, that not one word of what had fallen from the Deputy Usher had been heard; and how, then, did the Speaker know what was the message, or whether he was wanted at all in the other House? (*Loud cheering, inter-*



mingled with cries of "Order" from the Treasury Bench.)

The Speaker then rose, the uproar still continuing, and Mr. BENNET exclaiming, with a loud voice—"This is a scandal to the country."

The Speaker then proceeded down the body of the House amidst the most deafening and disconcerting cries of "Shame, shame," loud hooting and repeated hisses. Lord Castlereagh, the Chancellor of the Exchequer, and a very few ministerial Members, accompanied the Speaker. Lord Castlereagh followed close to him.

A considerable proportion of the members remained in the house awaiting the Speaker's return; but it turned out, contrary to all precedent, that no speech had been made by the commissioners, and the Speaker did not return to the House of Commons, but went straight to his private apartments, leaving the House of Commons to collect as they could that a prorogation had actually taken place.

On the Speaker's return from the House of Peers, as he was passing through the lobby, the Sergeant at Arms, who was preceding him, was, as is usual, about to enter the door of the House of Commons, when the Speaker called to him, and said, "Mr. Seymour, there is no business to be done; therefore I cannot go into the house." The Sergeant bowed, and the Speaker passed quickly into the avenues leading to his house.

Mr. Brougham had communicated, in writing, to the Speaker and Lord Castlereagh, that a Message would be delivered from the Queen. The Speaker had returned for answer that he would take the chair at a quarter before two, although the general practice had been not to take the chair until two.

The following is the Message which Mr. Denman was about to read:—

### THE QUEEN'S MESSAGE.

"CAROLINE, R.

"The Queen thinks it proper to inform the House of Commons that she has received communication from the King's Minister plainly intimating an intention to prorogue the Parliament immediately, and accompanied by an offer of money for her support, and in providing her with a residence until a new session may be holden.

"This offer the Queen has had no hesitation in refusing. While the late extraordinary proceedings were pending, it might be fit for her to accept the advances made for her temporary accommodation; but she naturally expected that the failure of this unparalleled attempt to degrade the Royal Family would be immediately followed by submitting some permanent measure to the wisdom of Parliament—and she has felt that she could no longer, with propriety, receive from the ministers what she is well assured the liberality of the House of Commons would have granted, as alike essential to the dignity of the throne, and demanded by the plainest principles of justice.

"If the Queen is to understand that new proceedings are meditated against her, she throws herself with unabated confidence on the representatives of the people, fully relying on their justice and wisdom to take effectual steps to protect her from the further vexation of unnecessary delay, and to provide that these unexampled persecution may at length be brought to a close."

## LIST of WITNESSES for the DEFENCE.

Lemann James, 1255, 1564.  
Colonel Anthony Butler St. Leger, 1256.  
Earl of Guildford, 1257.  
Lord Glenbervie, 1261.  
Lady Charlotte Lindsay, 1261, 1263, 1265, 1292.  
Earl of Llandaff, 1268, 1269.  
Honble. Keppel Craven, 1269,  
Sir William Gell, 1276, 1282.  
William Carrington, 1285, 1298, 1342.  
John Whitcomb, 1293, 1297.  
Theodore Majochi, 1298.  
John Jacob Sicard, 1308.  
Dr. Holland, 1308.  
Charles Mills, Esq., 1313.  
Joseph Theoline, 1316.  
Carlo Forti, 1318.  
Lieut. John Flynn, 1323, 1329.

Lieut. Joseph Robert Hownam, 1345, 1346, 1367, 1556.  
Granville Sharpe, Esq., 1379, 1481.  
Santino Guggiari, 1379.  
Giuseppe Garolini, 1383.  
John Allen Powell, Esq., 1406, 1408, 1413.  
Joseph Planta, Esq., 1414.  
Filippo Pomi, 1432, 1444, 1492.  
Sir John Beresford, 1424.  
Bonfiglio Pomarti, 1445, 1485,  
Samuel Inman, 1482.  
Antonio Maeni, 1493, 1508.  
Dominico Salvadori, 1509.  
Alexander Olivieri, 1531.  
Tommaso Lago-Maggiore, 1536.  
Chevalier Vassali, 1541.  
Mademoiselle Demont, 1557.  
Francetti Martini, 1561.  
Capt. Briggs, 1578.

## *Principal Speeches of Counsel, &c.*

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Mr. BROUGHAM's opening speech for the defence, 1194, resumed 1215.<br/>         Mr. Williams's do., 1226, resumed 1240.<br/>         Expenditure of proceedings against her Majesty, Commons, 1184, Lords, 1578.<br/>         Protest of her Majesty, 1826.<br/>         Address of her Majesty to the House of Commons, Nov. 23d. 1872.</p> | <p>Mr. Denman's general review of the evidence, 1561.<br/>         Dr. Lushington's do., 1632.<br/>         Attorney General, do., 1654.<br/>         Solicitor General, do., 1697.<br/>         Voting list for and against 2nd. reading of Bill, 1824; Divorce Clause, 1853; third reading, 1869.</p> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

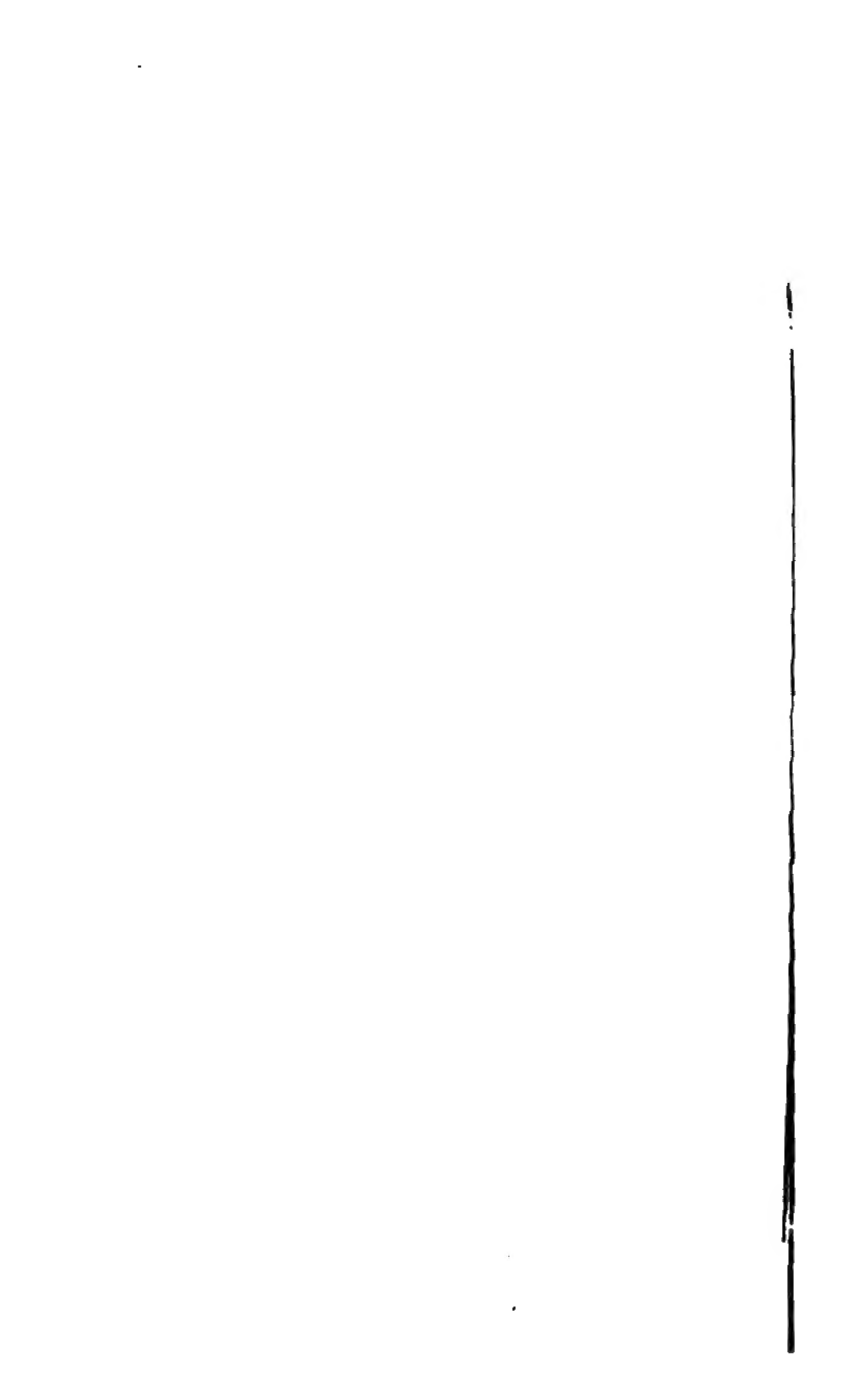
## *LIST of the PEERS who expressed their OPINIONS on the General Question of GUILTY or NOT GUILTY.*

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| <p>Anson, Lord, 1850.<br/>         Arden, Lord, 1787.<br/>         Ashburton, Lord, 1790.<br/>         Athol, Duke of, 1814.<br/>         Bedford, Duke of, 1863.<br/>         Blesington, Earl of, 1813.<br/>         Calthorpe, Lord, 1810.<br/>         Caernarvon, Earl of, 1828, 1850.<br/>         Cantertury, Archbp. of, 1837.<br/>         Chester, Bishop of, 1837, 1866.<br/>         Darnley, Earl of, 1831, 1839.<br/>         De Clifford, Lord, 1813.<br/>         De Dunstanville, Lord, 1797.<br/>         Donegal, Marquis of, 1867.<br/>         Doneghmore, Earl of, 1755, 1829, 1840, 1858.<br/>         Duncan, Lord, 1843.<br/>         Eldon, Lord, 1728, 1739, 1829, 1842, 1865.<br/>         Ellenborough, Lord, 1787.<br/>         Enniskillen, Earl of, 1810.<br/>         Erskine, Lord, 1734, 1790, 1867.<br/>         Essex, Earl of, 1850.<br/>         Falmouth, Lord, 1787.<br/>         Fitzwilliam, Earl of, 1841.<br/>         Fortescue, Earl of, 1863.<br/>         Gloucester, Bishop of, 1868.<br/>         Gosford, Earl of, 1814.<br/>         Grantham, Lord, 1813.<br/>         Grenville, Lord, 1816.<br/>         Grey, Earl, 1757, 1830.<br/>         Grosvenor, Earl, 1750, 1867.<br/>         Hamilton, Duke of, 1858.<br/>         Hampden, Lord, 1852.<br/>         Harewood, Earl of, 1754.</p> | <p>Harrowby, Earl of, 1787, 1840.<br/>         Holland, Lord, 1844, 1851.<br/>         Howard, Lord, 1810.<br/>         Huntly, Marquis of, 1867.<br/>         Kenyon, Lord, 1860.<br/>         King, Lord, 1849.<br/>         Lansdown, Marquis of, 1799, 1802, 1846.<br/>         Llandaff, Bishop of, 1837.<br/>         Lauderdale, Earl of, 1739, 1838.<br/>         Limerick, Earl of, 1850.<br/>         Liverpool, Earl of, 1774, 1779, 1802, 1832, 1841.<br/>         London, Bishop of, 1832, 1840.<br/>         Manners, Lord, 1798.<br/>         Manvers, Earl, 1852.<br/>         Montrose, Duke of, 1869.<br/>         Morley, Earl of, 1860.<br/>         Newcastle, Duke of, 1799, 1827.<br/>         Northumberland, Duke of, 1810.<br/>         Orford, Lord, 1825.<br/>         Peterborough, Bishop of, 1846.<br/>         Redesdale, Lord, 1746, 1847.<br/>         Roseberry, Earl of, 1745.<br/>         Ross, Lord, 1851.<br/>         Rosslyn, Earl of, 1819.<br/>         Somers, Lord, 1827, 1862.<br/>         Somerset, Duke of, 1815.<br/>         Stafford, Marquis of, 1812.<br/>         Tuam, Archbishop of, 1845.<br/>         Worcester, Bishop of, 1827.<br/>         York, Archbp. of, 1836, 1847.</p> |
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